

COMMITTEE ON GOVERNMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1111

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 9-462.01, Arizona Revised Statutes, is amended to read:

9-462.01. Zoning regulations: public hearing: definitions

A. Pursuant to this article, the legislative body of any municipality by ordinance may in order to conserve and promote the public health, safety and general welfare:

1. Regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes.

2. Regulate signs and billboards.

3. Regulate the location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts and other open spaces, the percentage of a lot which may be occupied by a building or structure, access to incident solar energy and the intensity of land use.

4. Establish requirements for off-street parking and loading.

5. Establish and maintain building setback lines.

6. Create civic districts around civic centers, public parks, public buildings or public grounds and establish regulations therefor.

7. Require as a condition of rezoning public dedication of rights-of-way as streets, alleys, public ways, drainage and public utilities as are reasonably required by or related to the effect of the rezoning.

8. Establish floodplain zoning districts and regulations to protect life and property from the hazards of periodic inundation. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.

9. Establish special zoning districts or regulations for certain lands characterized by adverse topography, adverse soils, subsidence of the earth, high water table, lack of water or other natural or man-made hazards to life or property. Regulations may include variable lot sizes, special grading or drainage requirements, or other requirements deemed necessary for the public health, safety or general welfare.

10. Establish districts of historical significance provided that:

(a) The ordinances may require that special permission be obtained for any development within the district if the legislative body has adopted a plan for the preservation of districts of historical significance which meets the requirements of subdivision (b) of this paragraph, and the criteria contained in the ordinance are consistent with the objectives set forth in the plan.

(b) A plan for the preservation of districts of historical significance shall identify districts of special historical significance,

1 state the objectives to be sought concerning the development or preservation  
2 of sites, area and structures within the district, and formulate a program  
3 for public action including the provision of public facilities and the  
4 regulation of private development and demolition necessary to realize these  
5 objectives.

6 (c) The ordinance establishing districts of historical significance  
7 shall set forth standards necessary to preserve the historical character of  
8 the area so designated.

9 (d) The ordinances may designate or authorize any committee,  
10 commission, department or person to designate structures or sites of special  
11 historical significance in accordance with criteria contained in the  
12 ordinance, and no designation shall be made except after a public hearing  
13 upon notice of the owners of record of the property so designated. The  
14 ordinances may require that special permission be obtained for any  
15 development respecting the structures or sites.

16 11. Establish age specific community zoning districts in which  
17 residency is restricted to a head of a household or spouse who must be of a  
18 specific age or older and in which minors are prohibited from living in the  
19 home. Age specific community zoning districts shall not be overlaid over  
20 property without the permission of all owners of property included as part of  
21 the district unless all of the property in the district has been developed,  
22 advertised and sold or rented under specific age restrictions. The  
23 establishment of age specific community zoning districts is subject to all of  
24 the public notice requirements and other procedures prescribed by this  
25 article.

26 12. Establish procedures, methods and standards for the transfer of  
27 development rights within its jurisdiction. Any proposed transfer of  
28 development rights from the sending property or to the receiving property  
29 shall be subject to the notice and hearing requirements of section 9-462.04  
30 and shall be subject to the approval and consent of the property owners of  
31 both the sending and receiving property. Before any transfer of development  
32 rights, a municipality shall adopt an ordinance providing for:

33 (a) The issuance and recordation of the instruments necessary to sever  
34 development rights from the sending property and to affix development rights  
35 to the receiving property. These instruments shall be executed by the  
36 affected property owners and lienholders.

37 (b) The preservation of the character of the sending property and  
38 assurance that the prohibitions against the use and development of the  
39 sending property shall bind the landowner and every successor in interest to  
40 the landowner.

41 (c) The severance of transferable development rights from the sending  
42 property and the delayed transfer of development rights to a receiving  
43 property.

44 (d) The purchase, sale, exchange or other conveyance of transferable  
45 development rights prior to the rights being affixed to a receiving property.

46 (e) A system for monitoring the severance, ownership, assignment and  
47 transfer of transferable development rights.

1 (f) The right of a municipality to purchase development rights and to  
2 hold them for resale.

3 (g) The right of a municipality at its discretion to enter into an  
4 intergovernmental agreement with another municipality or a county for the  
5 transfer of development rights between jurisdictions. The transfer shall  
6 comply with this paragraph, except that if the sending property is located in  
7 an unincorporated area of a county, the approval of the development rights to  
8 be sent to a municipality shall comply with section ~~11-821.03~~ 11-817.

9 B. For the purposes prescribed in subsection A of this section, the  
10 legislative body may divide a municipality, or portion of a municipality,  
11 into zones of the number, shape and area it deems best suited to carry out  
12 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

13 C. All zoning regulations shall be uniform for each class or kind of  
14 building or use of land throughout each zone, but the regulations in one type  
15 of zone may differ from those in other types of zones as follows:

16 1. Within individual zones, there may be uses permitted on a  
17 conditional basis under which additional requirements must be met, including  
18 requiring site plan review and approval by the planning agency. The  
19 conditional uses are generally characterized by any of the following:

20 (a) Infrequency of use.

21 (b) High degree of traffic generation.

22 (c) Requirement of large land area.

23 2. Within residential zones, the regulations may permit modifications  
24 to minimum yard lot area and height requirements.

25 D. To carry out the purposes of this article and articles 6 and 6.2 of  
26 this chapter, the legislative body may adopt overlay zoning districts and  
27 regulations applicable to particular buildings, structures and land within  
28 individual zones. For the purposes of this subsection, "overlay zoning  
29 district" means a special zoning district that includes regulations which  
30 modify regulations in another zoning district with which the overlay zoning  
31 district is combined. Overlay zoning districts and regulations shall be  
32 adopted pursuant to section 9-462.04.

33 E. The legislative body may approve a change of zone conditioned upon  
34 a schedule for development of the specific use or uses for which rezoning is  
35 requested. If at the expiration of this period the property has not been  
36 improved for the use for which it was conditionally approved, the legislative  
37 body, after notification by certified mail to the owner and applicant who  
38 requested the rezoning, shall schedule a public hearing to take  
39 administrative action to extend, remove or determine compliance with the  
40 schedule for development or take legislative action to cause the property to  
41 revert to its former zoning classification.

42 F. All zoning and rezoning ordinances or regulations adopted under  
43 this article shall be consistent with and conform to the adopted general plan  
44 of the municipality, if any, as adopted under article 6 of this chapter. In  
45 the case of uncertainty in construing or applying the conformity of any part  
46 of a proposed rezoning ordinance to the adopted general plan of the  
47 municipality, the ordinance shall be construed in a manner that will further  
48 the implementation of, and not be contrary to, the goals, policies and

1 applicable elements of the general plan. A rezoning ordinance conforms with  
2 the land use element of the general plan if it proposes land uses, densities  
3 or intensities within the range of identified uses, densities and intensities  
4 of the land use element of the general plan.

5 G. No regulation or ordinance under this section may prevent or  
6 restrict agricultural composting on farmland that is five or more contiguous  
7 acres and that meets the requirements of this subsection. An agricultural  
8 composting operation shall notify in writing the legislative body of the city  
9 or town and the nearest fire department of the location of the composting  
10 operation. If the nearest fire department is located in a different city or  
11 town from the agricultural composting operation, the agricultural composting  
12 operation shall also notify in writing the fire department of the city or  
13 town in which the operation is located. Agricultural composting is subject  
14 to sections 3-112 and 49-141. Agricultural composting may not be conducted  
15 within one thousand three hundred twenty feet of an existing residential use,  
16 unless the operations are conducted on farmland or land leased in association  
17 with farmland. Any disposal of manure shall comply with section 49-247. For  
18 the purposes of this subsection:

19 1. "Agricultural composting" means the controlled biological  
20 decomposition of organic solid waste under in-vessel anaerobic or aerobic  
21 conditions where all or part of the materials are generated on the farmland  
22 or will be used on the farmland associated with the agricultural composting  
23 operation.

24 2. "Farmland" has the same meaning prescribed in section 3-111 and is  
25 subject to regulation under section 49-247.

26 H. For the purposes of this section:

27 1. "Development rights" means the maximum development that would be  
28 allowed on the sending property under any general or specific plan and local  
29 zoning ordinance of a municipality in effect on the date the municipality  
30 adopts an ordinance pursuant to subsection A, paragraph 12 of this section  
31 respecting the permissible use, area, bulk or height of improvements made to  
32 the lot or parcel. Development rights may be calculated and allocated in  
33 accordance with factors including dwelling units, area, floor area, floor  
34 area ratio, height limitations, traffic generation or any other criteria that  
35 will quantify a value for the development rights in a manner that will carry  
36 out the objectives of this section.

37 2. "Receiving property" means a lot or parcel within which development  
38 rights are increased pursuant to a transfer of development rights. Receiving  
39 property shall be appropriate and suitable for development and shall be  
40 sufficient to accommodate the transferable development rights of the sending  
41 property without substantial adverse environmental, economic or social impact  
42 to the receiving property or to neighboring property.

43 3. "Sending property" means a lot or parcel with special  
44 characteristics, including farmland, woodland, desert land, mountain land,  
45 floodplain, natural habitats, recreation or parkland, including golf course  
46 area, or land that has unique aesthetic, architectural or historic value that  
47 a municipality desires to protect from future development.

1           4. "Transfer of development rights" means the process by which  
2 development rights from a sending property are affixed to one or more  
3 receiving properties.

4           Sec. 2. Section 11-251, Arizona Revised Statutes, is amended to read:

5           11-251. Powers of board

6           The board of supervisors, under such limitations and restrictions as  
7 are prescribed by law, may:

8           1. Supervise the official conduct of all county officers and officers  
9 of all districts and other subdivisions of the county charged with assessing,  
10 collecting, safekeeping, managing or disbursing the public revenues, see that  
11 such officers faithfully perform their duties and direct prosecutions for  
12 delinquencies, and, when necessary, require the officers to renew their  
13 official bonds, make reports and present their books and accounts for  
14 inspection.

15           2. Divide the counties into such districts or precincts as required by  
16 law, change them and create others as convenience requires.

17           3. Establish, abolish and change election precincts, appoint  
18 inspectors and judges of elections, canvass election returns, declare the  
19 result and issue certificates thereof.

20           4. Lay out, maintain, control and manage public roads, ferries and  
21 bridges within the county and levy such tax for that purpose as may be  
22 authorized by law.

23           5. Provide for the care and maintenance of the sick of the county,  
24 erect and maintain hospitals for that purpose and, in its discretion, provide  
25 a farm in connection with the county hospital and adopt ordinances for  
26 working the farm.

27           6. Provide suitable rooms for county purposes.

28           7. Purchase, receive by donation or lease real or personal property  
29 necessary for the use of the county prison and take care of, manage and  
30 control the property, but no purchase of real property shall be made unless  
31 the value has been previously estimated by three disinterested citizens of  
32 the county, appointed by the board for that purpose, and no more than the  
33 appraised value shall be paid for the property.

34           8. Cause to be erected and furnished a courthouse, jail and hospital  
35 and such other buildings as necessary, and construct and establish a branch  
36 jail, when necessary, at a point distant from the county seat.

37           9. Sell at public auction, after thirty days' previous notice given by  
38 publication in a newspaper of the county, stating the time and place of the  
39 auction, and convey to the highest bidder, for cash or contract of purchase  
40 extending not more than ten years from the date of sale and upon such terms  
41 and conditions and for such consideration as the board shall prescribe, any  
42 property belonging to the county that the board deems advantageous for the  
43 county to sell, or that the board deems unnecessary for use by the county,  
44 and shall pay the proceeds thereof into the county treasury for use of the  
45 county, except that personal property need not be sold but may be used as a  
46 trade-in on the purchase of personal property when the board deems this  
47 disposition of the personal property to be in the best interests of the  
48 county. When the property for sale is real property, the board shall have

1 such property appraised by a qualified independent fee appraiser who has an  
2 office located in this state. The appraiser shall establish a minimum price,  
3 which shall not be less than ninety per cent of the appraised value. The  
4 notice regarding the sale of real property shall be published in the county  
5 where the property is situated and may be published in one or more other  
6 counties, and shall contain, among other things, the appraised value, the  
7 minimum acceptable sale price, and the common and legal description of the  
8 real property. Notwithstanding the requirement for a sale at public auction  
9 prescribed in this paragraph, a county, with unanimous consent of the board,  
10 without a public auction, may sell or lease any county property to any other  
11 duly constituted governmental entity, including the state, cities, towns and  
12 other counties. A county, with unanimous consent of the board, ~~AND~~ AND without  
13 public auction, may grant an easement on county property for public purposes  
14 to a utility as defined in section 40-491. A county, with unanimous consent  
15 of the board, without public auction, may sell or lease any county property  
16 for a specific use to any solely charitable, social or benevolent nonprofit  
17 organization incorporated or operating in this state. A county may dispose  
18 of surplus equipment and materials that have little or no value or that are  
19 unauctionable in any manner authorized by the board.

20 10. Examine and exhibit the accounts of all officers having the care,  
21 management, collection or disbursement of money belonging to the county or  
22 appropriated by law or otherwise for the use and benefit of the county.

23 11. Examine, settle and allow all accounts legally chargeable against  
24 the county, order warrants to be drawn on the county treasurer for that  
25 purpose and provide for issuing the warrants.

26 12. Levy such tax annually on the taxable property of the county as may  
27 be necessary to defray the general current expenses thereof, including  
28 salaries otherwise unprovided for, and levy such other taxes as are required  
29 to be levied by law.

30 13. Equalize assessments.

31 14. Direct and control the prosecution and defense of all actions to  
32 which the county is a party, and compromise them.

33 15. Insure the county buildings in the name of and for the benefit of  
34 the county.

35 16. Fill by appointment all vacancies occurring in county or precinct  
36 offices.

37 17. Adopt provisions necessary to preserve the health of the county,  
38 and provide for the expenses thereof.

39 18. With the approval of the department of health services, contract  
40 with any qualified person to provide all or part of the health services,  
41 funded through the department of health services with federal or state  
42 monies, that the board in its discretion extends to residents of the county.

43 19. Contract for county printing and advertising, and provide books and  
44 stationery for county officers.

45 20. Provide for rebinding county records, or, if necessary, the  
46 transcribing of county records.

47 21. Make and enforce necessary rules and regulations for the government  
48 of its body, the preservation of order and the transaction of business.

1           22. Adopt a seal for the board, a description and impression of which  
2 shall be filed by the clerk in the office of the county recorder and the  
3 secretary of state.

4           23. Establish, maintain and conduct or aid in establishing, maintaining  
5 and conducting public aviation fields, purchase, receive by donation or lease  
6 any property necessary for that purpose, lease, at a nominal rental if  
7 desired, sell such aviation fields or property to the United States or any  
8 department, or sell or lease such aviation fields to a city, exchange lands  
9 acquired pursuant to this section for other lands, or act in conjunction with  
10 the United States in maintaining, managing and conducting all such property.  
11 If any such property or part of that property is not needed for these  
12 purposes, it shall be sold by the board and the proceeds shall be paid into  
13 the general fund of the county.

14           24. Acquire and hold property for the use of county fairs, and conduct,  
15 take care of and manage them.

16           25. Authorize the sheriff to offer a reward, not exceeding ten thousand  
17 dollars in one case, for information leading to the arrest and conviction of  
18 persons charged with crime.

19           26. Contract for the transportation of insane persons to the state  
20 hospital or direct the sheriff to transport such persons. The county is  
21 responsible for such expense to the extent the expense is not covered by any  
22 third party payor.

23           27. Provide for the reasonable expenses of burial for deceased  
24 indigents as provided in section 36-831 and maintain a permanent register of  
25 deceased indigents, including name, age and date of death, and when burial  
26 occurs, the board shall mark the grave with a permanent marker giving the  
27 name, age, and date of birth, if known.

28           28. Sell or grant to the United States the title or interest of the  
29 county in any toll road or toll train in or partly within a national park,  
30 upon such terms and consideration as may be agreed upon by the board and the  
31 secretary of the interior of the United States.

32           29. Enter into agreements for acquiring rights-of-way, construction,  
33 reconstruction or maintenance of highways in their respective counties,  
34 including highways that pass through Indian reservations, with the government  
35 of the United States, acting through its duly authorized officers or agents  
36 pursuant to any act of Congress, except that the governing body of any Indian  
37 tribe whose lands are affected must consent to the use of its land, and any  
38 such agreements entered into before June 26, 1952 are validated and  
39 confirmed.

40           30. Do and perform all other acts and things necessary to the full  
41 discharge of its duties as the legislative authority of the county  
42 government, including receiving and accepting payment of monies by credit  
43 card or debit card, or both. Any fees or costs incurred by the use of the  
44 credit or debit card shall be paid by the person tendering payment unless the  
45 charging entity determines that the financial benefits of accepting credit  
46 cards or debit cards exceeds the additional processing fees.

47           31. Make and enforce all local, police, sanitary and other regulations  
48 not in conflict with general law.

1           32. Budget for funds for foster home care during the school week for  
2 mentally retarded and otherwise handicapped children who reside within the  
3 county and attend a school for the handicapped in a city or town within such  
4 county.

5           33. Do and perform all acts necessary to enable the county to  
6 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.  
7 508), as amended.

8           34. Provide a plan or plans for its employees that provide tax deferred  
9 annuity and deferred compensation plans as authorized pursuant to title 26,  
10 United States Code. Such plans shall allow voluntary participation by all  
11 employees of the county. Participating employees shall authorize the board  
12 to make reductions in their remuneration as provided in an executed deferred  
13 compensation agreement.

14           35. Adopt and enforce standards for shielding and filtration of  
15 commercial or public outdoor portable or permanent light fixtures in  
16 proximity to astronomical or meteorological laboratories.

17           36. Subject to the prohibitions, restrictions and limitations as set  
18 forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation,  
19 landfill and grading to prevent unnecessary loss from erosion, flooding and  
20 landslides.

21           37. Make and enforce necessary ordinances for the operation and  
22 licensing of any establishment not in the limits of an incorporated city or  
23 town in which is carried on the business of providing baths, showers or other  
24 forms of hydrotherapy or any service of manual massage of the human body.

25           38. Provide pecuniary compensation as salary or wages for overtime work  
26 performed by county employees, including those employees covered by title 23,  
27 chapter 2, article 9. In so providing, the board may establish salary and  
28 wage plans incorporating classifications and conditions prescribed by the  
29 federal fair labor standards act.

30           39. Establish, maintain and operate facilities that provide for  
31 physical evaluation, diagnosis and treatment of patients and that do not keep  
32 patients overnight as bed patients or treat patients under general  
33 anesthesia.

34           40. Enact ordinances under its police authority prescribing reasonable  
35 curfews in the entire unincorporated area or any area less than the entire  
36 unincorporated area of the county for minors and fines not to exceed the fine  
37 for a petty offense for violation of such ordinances. Nothing in this  
38 paragraph shall be construed to require a request from an association or a  
39 majority of the residents of an area before the board may enact an ordinance  
40 applicable to the entire or any portion of the unincorporated area. An  
41 ordinance enacted pursuant to this paragraph shall provide that a minor is  
42 not violating a curfew if the minor is accompanied by a parent, a guardian or  
43 an adult having supervisory custody, is on an emergency errand or has been  
44 specifically directed to the location on reasonable, legitimate business or  
45 some other activity by the parent, guardian or adult having supervisory  
46 custody. If no curfew ordinance is applicable to a particular unincorporated  
47 area of the county, the board may adopt a curfew ordinance on the request or  
48 petition of either:



1           (a) A homeowners' association that represents a majority of the  
2 homeowners in the area covered by the association and to which the curfew  
3 would apply.

4           (b) A majority of the residents of the area to which the curfew would  
5 apply.

6           41. Lease or sublease personal property owned by the county to other  
7 political subdivisions of this state to be used for a public purpose.

8           42. In addition to the agreements authorized by section 11-651, enter  
9 into long-term agreements for the purchase of personal property, provided  
10 that the board may cancel any such agreement at the end of a fiscal year, at  
11 which time the seller may repossess the property and the agreement shall be  
12 deemed terminated.

13           43. Make and enforce necessary ordinances not in conflict with the laws  
14 of this state to regulate off-road recreational motor vehicles that are  
15 operated within the county on public lands without lawful authority or on  
16 private lands without the consent of the lawful owner or that generate air  
17 pollution. For the purposes of this paragraph, "off-road recreational motor  
18 vehicle" means three and four wheel vehicles manufactured for recreational  
19 nonhighway all terrain travel.

20           44. Acquire land for roads, drainage ways and other public purposes by  
21 exchange without public auction, except that notice shall be published thirty  
22 days before the exchange, listing the property ownership and descriptions.

23           45. Purchase real property for public purposes, provided that final  
24 payment shall be made not later than five years after the date of purchase.

25           46. Lease-purchase real property and improvements for real property for  
26 public purposes, provided that final payment shall be made not later than  
27 twenty-five years after the date of purchase. Any increase in the final  
28 payment date from fifteen years up to the maximum of twenty-five years shall  
29 be made only on unanimous approval by the board of supervisors.

30           47. Make and enforce ordinances for the protection and disposition of  
31 domestic animals subject to inhumane, unhealthful or dangerous conditions or  
32 circumstances provided that nothing in this paragraph limits or restricts the  
33 authority granted to incorporated cities and towns or counties pursuant to  
34 section 13-2910. An ordinance enacted pursuant to this paragraph shall not  
35 restrict or limit the authority of the game and fish commission to regulate  
36 the taking of wildlife. For the purposes of this paragraph, "domestic  
37 animal" means an animal kept as a pet and not primarily for economic  
38 purposes.

39           48. If a part of a parcel of land is to be taken for roads, drainage,  
40 flood control or other public purposes and the board and the affected  
41 property owner determine that the remainder will be left in such a condition  
42 as to give rise to a claim or litigation concerning severance or other  
43 damage, acquire the whole parcel by purchase, donation, dedication, exchange,  
44 condemnation or other lawful means, and the remainder may be sold or  
45 exchanged for other properties needed for any public purpose.

46           49. Make and enforce necessary rules providing for the reimbursement of  
47 travel and subsistence expenses of members of county boards, commissions and  
48 advisory committees when acting in the performance of their duties, if the

1 board, commission or advisory committee is authorized or required by federal  
2 or state law or county ordinance, and the members serve without compensation.

3 50. Provide a plan or plans for county employee benefits that allow for  
4 participation in a cafeteria plan that meets the requirements of the United  
5 States internal revenue code of 1986.

6 51. Provide for fringe benefits for county employees, including sick  
7 leave, personal leave, vacation and holiday pay and jury duty pay.

8 52. Make and enforce ordinances that are more restrictive than state  
9 requirements to reduce or encourage the reduction of carbon monoxide and  
10 ozone levels, provided an ordinance does not establish a standard for  
11 vehicular emissions, including ordinances to reduce or encourage the  
12 reduction of the commuter use of motor vehicles by employees of the county  
13 and employees whose place of employment is in unincorporated areas of the  
14 county.

15 53. Make and enforce ordinances to provide for the reimbursement of up  
16 to one hundred per cent of the cost to county employees of public bus or van  
17 pool transportation to and from their place of employment.

18 54. Lease for public purposes any real property, improvements for real  
19 property and personal property under the same terms and conditions, to the  
20 extent applicable, as are specified in sections 11-651 and 11-653 for  
21 lease-purchases.

22 55. Enact ordinances prescribing regulation of alarm systems and  
23 providing for civil penalties to reduce the incidence of false alarms at  
24 business and residential structures relating to burglary, robbery, fire and  
25 other emergencies not within the limits of an incorporated city or town.

26 56. In addition to paragraph 9 of this section, and notwithstanding  
27 section 23-504, sell or dispose of, at no less than fair market value, county  
28 personal property that the board deems no longer useful or necessary through  
29 a retail outlet or to another government entity if the personal property has  
30 a fair market value of no more than one thousand dollars, or by retail sale  
31 or private bid, if the personal property has a fair market value of no more  
32 than fifteen thousand dollars. Notice of sales in excess of one thousand  
33 dollars shall include a description and sale price of each item and shall be  
34 published in a newspaper of general circulation in the county, and for thirty  
35 days after notice other bids may be submitted that exceed the sale price by  
36 at least five per cent. The county shall select the highest bid received at  
37 the end of the thirty day period.

38 57. Sell services, souvenirs, sundry items or informational  
39 publications that are uniquely prepared for use by the public and by  
40 employees and license and sell information systems and intellectual property  
41 developed from county resources that the county is not obligated to provide  
42 as a public record.

43 58. On unanimous consent of the board of supervisors, license, lease or  
44 sell any county property pursuant to paragraphs 56 and 57 of this section at  
45 less than fair market value to any other governmental entity, including this  
46 state, cities, towns, public improvement districts or other counties within  
47 or outside of this state, or for a specific purpose to any charitable, social  
48 or benevolent nonprofit organization incorporated or operating in this state.

1           59. On unanimous consent of the board of supervisors, provide technical  
2 assistance and related services to a fire district pursuant to an  
3 intergovernmental agreement.

4           60. Adopt contracting procedures for the operation of a county health  
5 system pursuant to section 11-291. Before the adoption of contracting  
6 procedures the board shall hold a public hearing. The board shall publish  
7 one notification in a newspaper of general circulation in the county seat at  
8 least fifteen days before the hearing.

9           61. Enter into an intergovernmental agreement pursuant to chapter 7,  
10 article 3 of this title for a city or town to provide emergency fire or  
11 emergency medical services pursuant to section 9-500.23 to a county island as  
12 defined in section 11-251.12. The board may charge the owners of record in  
13 the county island a fee to cover the cost of an intergovernmental agreement  
14 that provides fire and emergency medical services.

15           62. In counties that employ or have designated an animal control county  
16 enforcement agent pursuant to section 11-1005, enter into agreements with  
17 foundations or charitable organizations to solicit donations, property or  
18 services, excluding enforcement or inspection services, for use by the county  
19 enforcement agent solely to perform nonmandated services and to fund capital  
20 improvements for county animal control, subject to annual financial and  
21 performance audits by an independent party as designated by the county board  
22 of supervisors. For the purposes of this paragraph, nonmandated services are  
23 limited to low cost spay and neuter services, public education and outreach  
24 efforts, pet adoption efforts, care for pets that are victims of cruelty or  
25 neglect and support for volunteer programs.

26           63. Adopt and provide for the enforcement of ordinances prohibiting  
27 open fires and campfires on designated lands in the unincorporated areas of  
28 the county when a determination of emergency is issued by the county  
29 emergency management officer and the board deems it necessary to protect  
30 public health and safety on those lands.

31           64. Fix the amount of license fees to be paid by any person, firm,  
32 corporation or association for carrying on any game or amusement business in  
33 unincorporated areas of the county and prescribe the method of collection or  
34 payment of those fees, for a stated period in advance, and fix penalties for  
35 failure to comply by fine. Nothing in this article shall be construed as  
36 authorizing any county to require an occupational license or fee for any  
37 activity if state law precludes requiring such a license or fee.

38           65. Adopt and enforce ordinances for the prevention, abatement and  
39 removal of graffiti, providing that any restrictions on the retail display of  
40 potential graffiti tools be limited to any of the following, as determined by  
41 the retail business:

42           (a) In a place that is in the line of sight of a cashier or in the  
43 line of sight from a work station normally continuously occupied during  
44 business hours.

45           (b) In a manner that makes the product accessible to a patron of the  
46 business establishment only with the assistance of an employee of the  
47 establishment.

1 (c) In an area electronically protected, or viewed by surveillance  
2 equipment that is monitored, during business hours.

3 66. Adopt ordinances and fees related to the implementation of a local  
4 stormwater quality program pursuant to title 49, chapter 2, article 11.

5 Sec. 3. Section 11-254.06, Arizona Revised Statutes, is amended to  
6 read:

7 11-254.06. County infill incentive districts

8 A. The board of supervisors may designate an infill incentive district  
9 in any unincorporated area of the county that meets at least three of the  
10 following requirements:

- 11 1. There is a large number of vacant, older or dilapidated structures.
- 12 2. There is a large number of vacant or underused parcels of property  
13 that are of small or inappropriate sizes or that are environmentally  
14 contaminated, that are owned by different owners and that are located in an  
15 area that lacks the presence of development and investment activity compared  
16 to other areas in the county.
- 17 3. There is a large number of parcels of property or buildings where  
18 nuisances exist or occur.
- 19 4. There is a high occurrence of crime.
- 20 5. There is a continuing decline in population.

21 B. Before establishing an infill incentive district, the board of  
22 supervisors shall:

- 23 1. Identify the boundaries of the proposed district.
- 24 2. Notify the owners of private property in the proposed district and  
25 property managers of federal and state land in the proposed district by first  
26 class mail sent to the addresses on the most recent tax roll. The notice  
27 shall be mailed at least fifteen days before the hearing held pursuant to  
28 paragraph 4 of this subsection.
- 29 3. Publish notice of the proposed district in a newspaper of general  
30 circulation in the county once each week for two consecutive weeks before the  
31 hearing held pursuant to paragraph 4 of this subsection.
- 32 4. Hold at least one public hearing in the county supervisorial  
33 district in which the proposed district is located to provide information and  
34 receive public comments.

35 C. If, after the hearing, it appears to the board that the public  
36 interest, convenience and welfare will be served by establishing ~~a county~~ AN  
37 infill INCENTIVE district, the board may establish the district by adopting a  
38 resolution stating the reasons for establishing the district, the specific  
39 conditions described in subsection A of this section that qualify the area  
40 ~~for~~ AS a district and provisions for the orderly and beneficial redevelopment  
41 of the district.

42 D. If the board of supervisors establishes an infill incentive  
43 district, it shall adopt an infill incentive plan to encourage redevelopment  
44 in the district. The plan shall emphasize voluntary incentives, including,  
45 if appropriate, continuing traditional rural and agricultural enterprises.  
46 The plan may include:

- 47 1. Expedited zoning or rezoning procedures.
- 48 2. Expedited processing of plans and proposals.

1           3. Waivers of county and county improvement district fees and  
2 assessments for development activities.

3           4. Waivers of development standards and procedural requirements.

4           E. The infill incentive plan shall not impair the ability of utilities  
5 to provide electricity, water, natural gas or other services in accordance  
6 with health, safety and industry standards, including meeting electric  
7 service load growth demand by customers.

8           F. Infill incentives established pursuant to this section shall not be  
9 in violation of the requirements of the county comprehensive plan pursuant to  
10 section ~~11-821~~ 11-804.

11           Sec. 4. Repeal

12           Title 11, chapter 6, articles 1 and 2, Arizona Revised Statutes, are  
13 repealed.

14           Sec. 5. Renumber

15           Title 11, chapter 6, articles 3 and 4, Arizona Revised Statutes, are  
16 renumbered as title 11, chapter 6, articles 5 and 6, respectively.

17           Sec. 6. Title 11, chapter 6, Arizona Revised Statutes, is amended by  
18 adding new articles 1, 2, 3 and 4, to read:

19                   ARTICLE 1. COUNTY PLANNING

20           11-801. Definitions

21           IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

22           1. "AREA OF JURISDICTION" MEANS THAT PART OF THE COUNTY OUTSIDE THE  
23 CORPORATE LIMITS OF ANY MUNICIPALITY.

24           2. "BOARD" MEANS THE BOARD OF SUPERVISORS.

25           3. "COMMISSION" MEANS THE COUNTY PLANNING AND ZONING COMMISSION.

26           4. "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE HELD IN TRUST BY THE  
27 UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF INDIAN TRIBES BY TREATY,  
28 LAW OR EXECUTIVE ORDER AND THAT ARE CURRENTLY RECOGNIZED AS INDIAN  
29 RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

30           5. "INSPECTOR" MEANS THE COUNTY ZONING INSPECTOR.

31           6. "NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT" MEANS A DAILY  
32 OR WEEKLY NEWSPAPER IF ANY IS PUBLISHED IN THE COUNTY SEAT.

33           7. "REZONING" MEANS A CHANGE IN THE ZONING ORDINANCE CHANGING THE  
34 ZONING DISTRICT BOUNDARIES WITHIN AN AREA PREVIOUSLY ZONED.

35           8. "ZONING DISTRICT" MEANS ANY PORTION OF A COUNTY IN WHICH THE SAME  
36 SET OF ZONING REGULATIONS APPLIES.

37           9. "ZONING ORDINANCE" MEANS AN ORDINANCE THAT IS ADOPTED BY THE BOARD  
38 OF SUPERVISORS AND THAT CONTAINS ZONING REGULATIONS TOGETHER WITH A MAP  
39 SETTING FORTH THE PRECISE BOUNDARIES OF ZONING DISTRICTS WITHIN WHICH THE  
40 VARIOUS ZONING REGULATIONS ARE EFFECTIVE.

41           10. "ZONING REGULATIONS" MEANS PROVISIONS THAT GOVERN THE USE OF LAND  
42 OR BUILDINGS, OR BOTH, THE HEIGHT AND LOCATION OF BUILDINGS, THE SIZE OF  
43 YARDS, COURTS AND OPEN SPACES, THE ESTABLISHMENT OF SETBACK LINES AND SUCH  
44 OTHER MATTERS AS MAY OTHERWISE BE AUTHORIZED UNDER THIS CHAPTER AND THAT THE  
45 BOARD DEEMS SUITABLE AND PROPER.

46           11. "ZONING REGULATIONS AMENDMENT" MEANS A CHANGE IN THE ZONING  
47 ORDINANCE THAT MODIFIES, ADDS TO, TRANSFERS OR REPEALS ONE OR MORE ZONING  
48 REGULATIONS OR THAT ADDS ONE OR MORE ZONING REGULATIONS.

11-802. County planning and zoning commissions

A. THE BOARD OF SUPERVISORS OF A COUNTY, IN ORDER TO CONSERVE AND PROMOTE THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND GENERAL WELFARE AND PURSUANT TO THIS CHAPTER, SHALL PLAN AND PROVIDE FOR THE FUTURE GROWTH AND IMPROVEMENT OF ITS AREA OF JURISDICTION, COORDINATE ALL PUBLIC IMPROVEMENTS PURSUANT TO THE PLAN, FORM A PLANNING AND ZONING COMMISSION TO CONSULT WITH AND ADVISE IT REGARDING MATTERS OF PLANNING, ZONING AND SUBDIVISION PLATTING AND, IN THE MANNER PROVIDED IN THIS CHAPTER, ADOPT AND ENFORCE THOSE RULES, REGULATIONS, ORDINANCES AND PLANS AS MAY APPLY TO THE DEVELOPMENT OF ITS AREA OF JURISDICTION.

B. THE COMMISSION SHALL ACT IN AN ADVISORY CAPACITY TO THE BOARD AND MAY OR, IF REQUESTED BY THE BOARD, SHALL MAKE A REPORT OR RECOMMENDATION IN CONNECTION WITH ANY MATTER RELATING TO THE DEVELOPMENT OF THE COUNTY UNDER THE JURISDICTION OF THE BOARD. THE COMMISSION SHALL MAKE THOSE INVESTIGATIONS, MAPS, REPORTS AND RECOMMENDATIONS IN CONNECTION WITH THOSE INVESTIGATIONS, MAPS AND REPORTS AS SEEM DESIRABLE WITHIN THE LIMITS OF THE MONIES AVAILABLE.

C. IN THE COUNTIES HAVING THREE SUPERVISORIAL DISTRICTS, EACH COUNTY PLANNING AND ZONING COMMISSION SHALL CONSIST OF NINE MEMBERS WHO SHALL BE QUALIFIED ELECTORS OF THE COUNTY. THREE MEMBERS SHALL BE APPOINTED FROM EACH SUPERVISORIAL DISTRICT BY THE SUPERVISOR FROM THAT DISTRICT, AND NOT MORE THAN ONE OF THE THREE MAY BE A RESIDENT OF AN INCORPORATED MUNICIPALITY. MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION EXCEPT FOR REASONABLE TRAVEL EXPENSES.

D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, IN THE COUNTIES HAVING FIVE SUPERVISORIAL DISTRICTS, EACH COUNTY PLANNING AND ZONING COMMISSION SHALL CONSIST OF TEN MEMBERS WHO SHALL BE QUALIFIED ELECTORS OF THE COUNTY. TWO MEMBERS SHALL BE APPOINTED FROM EACH SUPERVISORIAL DISTRICT BY THE SUPERVISOR FROM THAT DISTRICT. MEMBERS SHALL BE RESIDENTS OF THE DISTRICT FROM WHICH THEY ARE APPOINTED. MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION EXCEPT FOR REASONABLE TRAVEL EXPENSES.

E. IF ANY SUPERVISORIAL DISTRICT IS AT LEAST NINETY PER CENT INDIAN RESERVATION AND AT LEAST NINETY PER CENT OF THE DISTRICT IS NOT SUBJECT TO COUNTY ZONING REGULATIONS, THE SUPERVISOR FROM THE DISTRICT MAY APPOINT SOME OR ALL OF THE MEMBERS TO THE COMMISSION FROM ANY SUPERVISORIAL DISTRICT IN THE COUNTY IF THERE IS NO APPOINTEE WHO IS WILLING TO SERVE WITHIN THE SUPERVISORIAL DISTRICT. THESE APPOINTMENTS ARE SUBJECT TO THE LIMITATIONS ON RESIDENCY REQUIRED BY SUBSECTIONS C AND D OF THIS SECTION. MEMBERS APPOINTED TO THE COMMISSION PURSUANT TO THIS SUBSECTION REQUIRE THE APPROVAL OF THE BOARD.

F. IN COUNTIES WITH A POPULATION OF LESS THAN ONE HUNDRED SEVENTY-NINE THOUSAND PERSONS, AN ALTERNATE MEMBER MAY BE APPOINTED BY THE APPOINTING SUPERVISOR FOR EACH COMMISSION MEMBER APPOINTED PURSUANT TO SUBSECTIONS C, D AND E OF THIS SECTION TO SERVE IN THE ABSENCE OF THAT MEMBER. ALTERNATE MEMBERS MAY BE APPOINTED FROM ANY SUPERVISORIAL DISTRICT IN THE COUNTY. DURING ANY MEETING OF THE COMMISSION, IF THE REGULARLY APPOINTED MEMBER BECOMES AVAILABLE, THE ALTERNATE MEMBER SHALL CONCLUDE ANY ACTION ON THE

1 AGENDA ITEM UNDER CONSIDERATION AND THE REGULARLY APPOINTED MEMBER SHALL BE  
2 SEATED FOR THE REMAINING ITEMS.

3 G. THE TERMS OF THE MEMBERS OF THE COMMISSIONS SHALL BE FOR FOUR YEARS  
4 EXCEPT FOR THOSE INITIALLY APPOINTED. OF THOSE MEMBERS INITIALLY APPOINTED  
5 PURSUANT TO SUBSECTION C OF THIS SECTION, FIVE MEMBERS SHALL BE APPOINTED TO  
6 A TWO YEAR TERM AND FOUR MEMBERS SHALL BE APPOINTED TO A FOUR YEAR TERM. OF  
7 THOSE MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION D OF THIS SECTION,  
8 FIVE MEMBERS SHALL BE APPOINTED TO A TWO YEAR TERM AND FIVE MEMBERS SHALL BE  
9 APPOINTED TO A FOUR YEAR TERM. THEREAFTER, EACH TERM SHALL BE FOUR YEARS.  
10 IF A VACANCY OCCURS OTHERWISE THAN BY EXPIRATION OF TERM, THE VACANCY SHALL  
11 BE FILLED BY APPOINTMENT FOR THE UNEXPIRED PORTION OF THE TERM. THE BOARD  
12 MAY REMOVE MEMBERS OF THE COMMISSION FOR CAUSE.

13 H. ON A CONVERSION FROM THREE TO FIVE SUPERVISORIAL DISTRICTS PURSUANT  
14 TO SECTION 11-212, THE BOARD OF SUPERVISORS, ON EXPIRATION OF THE TERMS OF  
15 MEMBERS OF THE COMMISSION SERVING ON THE DATE OF THE CONVERSION, SHALL MAKE  
16 THOSE APPOINTMENTS TO FILL THE VACANCIES TO CONFORM TO SUBSECTION D OF THIS  
17 SECTION AS SOON AS IS PRACTICABLE.

18 I. THE COUNTY ASSESSOR, COUNTY ENGINEER, COUNTY HEALTH OFFICER AND  
19 COUNTY ATTORNEY SHALL SERVE IN AN ADVISORY CAPACITY TO THE COMMISSION AND TO  
20 THE BOARDS OF ADJUSTMENT.

21 J. THE COMMISSION SHALL:

22 1. ELECT A CHAIRPERSON FROM AMONG ITS MEMBERS FOR A TERM OF ONE YEAR  
23 AND THOSE OTHER OFFICERS AS IT DETERMINES.

24 2. BY RESOLUTION FIX THE TIME AND PLACE WITHIN THE DISTRICT OF REGULAR  
25 MEETINGS, HOLD AT LEAST ONE REGULAR MEETING EACH MONTH AND HOLD ADDITIONAL  
26 MEETINGS AS THE CHAIRPERSON OR A MAJORITY OF THE COMMISSION DEEMS NECESSARY.

27 3. ADOPT RULES FOR THE TRANSACTION OF BUSINESS AND KEEP A RECORD OF  
28 ITS RESOLUTIONS, TRANSACTIONS, FINDINGS AND DETERMINATIONS, WHICH RECORD  
29 SHALL BE A PUBLIC RECORD AND BE OPEN TO PUBLIC INSPECTION.

30 4. TRANSMIT ALL OF ITS RECOMMENDATIONS, DECISIONS, FINDINGS, REPORTS  
31 AND OFFICIAL ACTIONS, REGARDLESS OF VOTE, TO THE BOARD OF SUPERVISORS.

32 K. A MAJORITY OF THE COMMISSION CONSTITUTES A QUORUM FOR THE  
33 TRANSACTION OF BUSINESS AND A MAJORITY VOTE OF THE QUORUM IS REQUIRED FOR ANY  
34 OFFICIAL ACTION.

35 11-803. Consultants; employees; use of services by city or town

36 A. THE BOARD MAY CONTRACT WITH CONSULTANTS FOR SERVICES AS MAY BE  
37 REQUIRED, EMPLOY THOSE PERSONS AND PROVIDE MONIES AS IT DEEMS NECESSARY TO  
38 CARRY ON THE WORK OF THE COMMISSION AND THE ENFORCEMENT OF THIS CHAPTER.

39 B. IF A CONSULTANT OR EMPLOYEES, OR BOTH, ARE PROVIDED TO CARRY ON  
40 COUNTY PLANNING WORK AS PRESCRIBED IN THIS CHAPTER, THE REGULARLY APPOINTED  
41 PLANNING AND ZONING COMMISSION OF AN INCORPORATED CITY OR TOWN WITHIN THE  
42 COUNTY MAY REQUEST THE SERVICES OF THE CONSULTANT OR EMPLOYEES, OR BOTH, FOR  
43 CONSULTATION AND ADVICE, INCLUDING THE PREPARATION OR REVIEW OF COMPREHENSIVE  
44 PLANS, ZONING ORDINANCES AND SUBDIVISION REGULATIONS WITHIN THE BOUNDARIES OF  
45 THE INCORPORATED CITY OR TOWN. THE BOARD, IF IT DEEMS IT PROPER AFTER  
46 CONSULTATION WITH THE COMMISSION, MAY MAKE THOSE SERVICES AVAILABLE AS  
47 MUTUALLY AGREED TO BY THE BOARD, COMMISSION AND THE AFFECTED CITY OR TOWN.

48 11-804. Comprehensive plan; contents

1           A. THE COMMISSION SHALL FORMULATE AND THE BOARD OF SUPERVISORS SHALL  
2 ADOPT OR READOPT A LONG-TERM COMPREHENSIVE PLAN FOR THE DEVELOPMENT OF THE  
3 AREA OF JURISDICTION IN THE MANNER PRESCRIBED BY THIS ARTICLE. THE  
4 COMPREHENSIVE PLAN, WITH THE ACCOMPANYING MAPS, PLATS, CHARTS AND DESCRIPTIVE  
5 MATTER, SHALL SHOW THE COMMISSION'S RECOMMENDATIONS FOR THE DEVELOPMENT OF  
6 THE AREA OF JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE MADE WITH THE  
7 GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND  
8 HARMONIOUS DEVELOPMENT OF THE AREA OF JURISDICTION PURSUANT TO THE PRESENT  
9 AND FUTURE NEEDS OF THE COUNTY. THE COMPREHENSIVE PLAN SHALL BE DEVELOPED SO  
10 AS TO CONSERVE THE NATURAL RESOURCES OF THE COUNTY, TO ENSURE EFFICIENT  
11 EXPENDITURE OF PUBLIC MONIES AND TO PROMOTE THE HEALTH, SAFETY, CONVENIENCE  
12 AND GENERAL WELFARE OF THE PUBLIC. THE COMPREHENSIVE PLAN MAY INCLUDE  
13 STUDIES AND RECOMMENDATIONS RELATIVE TO THE LOCATION, CHARACTER AND EXTENT OF  
14 HIGHWAYS, RAILROADS, BUS AND OTHER TRANSPORTATION ROUTES, BICYCLE FACILITIES,  
15 BRIDGES, PUBLIC BUILDINGS, PUBLIC SERVICES, SCHOOLS, PARKS, OPEN SPACE,  
16 HOUSING QUALITY, VARIETY AND AFFORDABILITY, PARKWAYS, HIKING AND RIDING  
17 TRAILS, AIRPORTS, FORESTS, WILDLIFE AREAS, DAMS, PROJECTS AFFECTING  
18 CONSERVATION OF NATURAL RESOURCES, AIR QUALITY, WATER QUALITY AND FLOODPLAIN  
19 ZONING. IN THE PREPARATION OF THE COMPREHENSIVE PLAN, THE COMMISSION SHALL  
20 MAKE SURVEYS AND STUDIES OF THE PRESENT CONDITIONS AND PROSPECTIVE FUTURE  
21 GROWTH OF THE AREA OF THE JURISDICTION. THE COMPREHENSIVE PLAN SHALL BE A  
22 PUBLIC RECORD, BUT ITS PURPOSE AND EFFECT SHALL BE PRIMARILY AS AN AID TO THE  
23 COUNTY PLANNING AND ZONING COMMISSION AND TO THE BOARD OF SUPERVISORS IN THE  
24 PERFORMANCE OF THEIR DUTIES. THE COMPREHENSIVE PLAN SHALL INCLUDE PROVISIONS  
25 THAT IDENTIFY CHANGES OR MODIFICATIONS THAT CONSTITUTE AMENDMENTS AND MAJOR  
26 AMENDMENTS TO THE PLAN.

27           B. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED  
28 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE  
29 THAN ONE HUNDRED TWENTY-FIVE THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL  
30 INCLUDE, AND FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:

31           1. PLANNING FOR LAND USE THAT DESIGNATES THE PROPOSED GENERAL  
32 DISTRIBUTION AND LOCATION AND EXTENT OF USES OF THE LAND FOR HOUSING,  
33 BUSINESS, INDUSTRY, AGRICULTURE, RECREATION, EDUCATION, PUBLIC BUILDINGS AND  
34 GROUNDS, OPEN SPACE AND OTHER CATEGORIES OF PUBLIC AND PRIVATE USES OF LAND  
35 APPROPRIATE TO THE COUNTY. THE LAND USE PLAN SHALL INCLUDE:

36           (a) A STATEMENT OF THE STANDARDS OF POPULATION DENSITY AND BUILDING  
37 INTENSITY RECOMMENDED FOR THE VARIOUS LAND USE CATEGORIES COVERED BY THE  
38 PLAN.

39           (b) SPECIFIC PROGRAMS AND POLICIES THAT THE COUNTY MAY USE TO PROMOTE  
40 COMPACT FORM DEVELOPMENT ACTIVITY AND LOCATIONS WHERE THOSE DEVELOPMENT  
41 PATTERNS SHOULD BE ENCOURAGED.

42           (c) CONSIDERATION OF AIR QUALITY AND ACCESS TO INCIDENT SOLAR ENERGY  
43 FOR ALL GENERAL CATEGORIES OF LAND USE.

44           (d) POLICIES THAT ADDRESS MAINTAINING A BROAD VARIETY OF LAND USES  
45 INCLUDING THE RANGE OF USES EXISTING IN THE COUNTY AT THE TIME THE PLAN IS  
46 ADOPTED, READOPTED OR AMENDED.

47           2. PLANNING FOR CIRCULATION CONSISTING OF THE GENERAL LOCATION AND  
48 EXTENT OF EXISTING AND PROPOSED FREEWAYS, ARTERIAL AND COLLECTOR STREETS,



1 BICYCLE ROUTES AND ANY OTHER MODES OF TRANSPORTATION AS MAY BE APPROPRIATE,  
2 ALL CORRELATED WITH THE LAND USE PLAN UNDER PARAGRAPH 1 OF THIS SUBSECTION.

3 3. PLANNING FOR WATER RESOURCES THAT ADDRESSES:

4 (a) THE KNOWN LEGALLY AND PHYSICALLY AVAILABLE SURFACE WATER,  
5 GROUNDWATER AND EFFLUENT SUPPLIES.

6 (b) THE DEMAND FOR WATER THAT WILL RESULT FROM FUTURE GROWTH PROJECTED  
7 IN THE COMPREHENSIVE PLAN, ADDED TO EXISTING USES.

8 (c) AN ANALYSIS OF HOW THE DEMAND FOR WATER THAT WILL RESULT FROM  
9 FUTURE GROWTH PROJECTED IN THE COMPREHENSIVE PLAN WILL BE SERVED BY THE WATER  
10 SUPPLIES IDENTIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH OR A PLAN TO OBTAIN  
11 ADDITIONAL NECESSARY WATER SUPPLIES.

12 4. PLANNING FOR ENERGY USE THAT:

13 (a) ENCOURAGES AND PROVIDES INCENTIVES FOR EFFICIENT USE OF ENERGY.

14 (b) IDENTIFIES POLICIES AND PRACTICES FOR GREATER USE OF RENEWABLE  
15 ENERGY.

16 C. IN ADDITION TO THE OTHER MATTERS THAT ARE REQUIRED OR AUTHORIZED  
17 UNDER THIS SECTION AND THIS ARTICLE, FOR COUNTIES WITH A POPULATION OF MORE  
18 THAN TWO HUNDRED THOUSAND PERSONS, THE COMPREHENSIVE PLAN SHALL INCLUDE, AND  
19 FOR OTHER COUNTIES THE COMPREHENSIVE PLAN MAY INCLUDE:

20 1. PLANNING FOR OPEN SPACE ACQUISITION AND PRESERVATION. THE OPEN  
21 SPACE PLAN SHALL INCLUDE:

22 (a) A COMPREHENSIVE INVENTORY OF OPEN SPACE AREAS, RECREATIONAL  
23 RESOURCES AND DESIGNATIONS OF ACCESS POINTS TO OPEN SPACE AREAS AND  
24 RESOURCES.

25 (b) AN ANALYSIS OF FORECASTED NEEDS, POLICIES FOR MANAGING AND  
26 PROTECTING OPEN SPACE AREAS AND RESOURCES AND IMPLEMENTATION STRATEGIES TO  
27 ACQUIRE ADDITIONAL OPEN SPACE AREAS AND FURTHER ESTABLISH RECREATIONAL  
28 RESOURCES.

29 (c) POLICIES AND IMPLEMENTATION STRATEGIES DESIGNED TO PROMOTE A  
30 REGIONAL SYSTEM OF INTEGRATED OPEN SPACE AND RECREATIONAL RESOURCES AND A  
31 CONSIDERATION OF ANY EXISTING REGIONAL OPEN SPACE PLAN.

32 2. PLANNING FOR GROWTH AREAS, SPECIFICALLY IDENTIFYING THOSE AREAS, IF  
33 ANY, THAT ARE PARTICULARLY SUITABLE FOR PLANNED MULTIMODAL TRANSPORTATION AND  
34 INFRASTRUCTURE EXPANSION AND IMPROVEMENTS DESIGNED TO SUPPORT A PLANNED  
35 CONCENTRATION OF A VARIETY OF USES, SUCH AS RESIDENTIAL, OFFICE, COMMERCIAL,  
36 TOURISM AND INDUSTRIAL USES. THE MIXED USE PLANNING SHALL INCLUDE POLICIES  
37 AND IMPLEMENTATION STRATEGIES THAT ARE DESIGNED TO:

38 (a) MAKE AUTOMOBILE, TRANSIT AND OTHER MULTIMODAL CIRCULATION MORE  
39 EFFICIENT, MAKE INFRASTRUCTURE EXPANSION MORE ECONOMICAL AND PROVIDE FOR A  
40 RATIONAL PATTERN OF LAND DEVELOPMENT.

41 (b) CONSERVE SIGNIFICANT NATURAL RESOURCES AND OPEN AREAS IN THE  
42 GROWTH AREA AND COORDINATE THEIR LOCATION TO SIMILAR AREAS OUTSIDE THE GROWTH  
43 AREA'S BOUNDARIES.

44 (c) PROMOTE THE PUBLIC AND PRIVATE CONSTRUCTION OF TIMELY AND  
45 FINANCIALLY SOUND INFRASTRUCTURE EXPANSION THROUGH THE USE OF INFRASTRUCTURE  
46 FUNDING AND FINANCING PLANNING THAT IS COORDINATED WITH DEVELOPMENT ACTIVITY.

47 3. AN ENVIRONMENTAL PLANNING ELEMENT THAT CONTAINS ANALYSES, POLICIES  
48 AND STRATEGIES TO ADDRESS ANTICIPATED EFFECTS, IF ANY, OF PLAN ELEMENTS ON

1 AIR QUALITY, WATER QUALITY AND NATURAL RESOURCES ASSOCIATED WITH PROPOSED  
2 DEVELOPMENT UNDER THE COMPREHENSIVE PLAN. THE POLICIES AND STRATEGIES TO BE  
3 DEVELOPED UNDER THIS ELEMENT SHALL BE DESIGNED TO HAVE COUNTYWIDE  
4 APPLICABILITY AND SHALL NOT REQUIRE THE PRODUCTION OF AN ADDITIONAL  
5 ENVIRONMENTAL IMPACT STATEMENT OR SIMILAR ANALYSIS BEYOND THE REQUIREMENTS OF  
6 STATE AND FEDERAL LAW.

7 4. A COST OF DEVELOPMENT ELEMENT THAT IDENTIFIES POLICIES AND  
8 STRATEGIES THAT THE COUNTY WILL USE TO REQUIRE DEVELOPMENT TO PAY ITS FAIR  
9 SHARE TOWARD THE COST OF ADDITIONAL PUBLIC FACILITY NEEDS GENERATED BY NEW  
10 DEVELOPMENT, WITH APPROPRIATE EXCEPTIONS WHEN IN THE PUBLIC INTEREST. THIS  
11 ELEMENT SHALL INCLUDE:

12 (a) A COMPONENT THAT IDENTIFIES VARIOUS MECHANISMS THAT ARE ALLOWED BY  
13 LAW AND THAT CAN BE USED TO FUND AND FINANCE ADDITIONAL PUBLIC SERVICES  
14 NECESSARY TO SERVE THE DEVELOPMENT, INCLUDING BONDING, SPECIAL TAXING  
15 DISTRICTS, DEVELOPMENT FEES, IN LIEU FEES AND FACILITY CONSTRUCTION,  
16 DEDICATIONS AND PRIVATIZATION.

17 (b) A COMPONENT THAT IDENTIFIES POLICIES TO ENSURE THAT ANY MECHANISMS  
18 THAT ARE ADOPTED BY THE COUNTY UNDER THIS ELEMENT RESULT IN A BENEFICIAL USE  
19 TO THE DEVELOPMENT, BEAR A REASONABLE RELATIONSHIP TO THE BURDEN IMPOSED ON  
20 THE COUNTY TO PROVIDE ADDITIONAL NECESSARY PUBLIC FACILITIES TO THE  
21 DEVELOPMENT AND OTHERWISE ARE IMPOSED PURSUANT TO LAW.

22 D. THE WATER RESOURCES ELEMENT OF THE COMPREHENSIVE PLAN DOES NOT  
23 REQUIRE:

24 1. NEW INDEPENDENT HYDROGEOLOGIC STUDIES.

25 2. THE COUNTY TO BE A WATER SERVICE PROVIDER.

26 E. IN APPLYING AN OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A  
27 COMPREHENSIVE PLAN, A COUNTY SHALL NOT DESIGNATE PRIVATE OR STATE LAND AS  
28 OPEN SPACE, RECREATION, CONSERVATION OR AGRICULTURE UNLESS THE COUNTY  
29 RECEIVES THE WRITTEN CONSENT OF THE LANDOWNER OR PROVIDES AN ALTERNATIVE,  
30 ECONOMICALLY VIABLE DESIGNATION IN THE COMPREHENSIVE PLAN OR ZONING  
31 ORDINANCE, ALLOWING AT LEAST ONE RESIDENTIAL DWELLING PER ACRE. IF THE  
32 LANDOWNER IS THE PREVAILING PARTY IN ANY ACTION BROUGHT TO ENFORCE THIS  
33 SUBSECTION, A COURT SHALL AWARD FEES AND OTHER EXPENSES TO THE LANDOWNER.  
34 EACH COUNTY SHALL INCORPORATE THIS SUBSECTION INTO ITS COMPREHENSIVE PLAN AND  
35 PROVIDE A PROCESS FOR A LANDOWNER TO RESOLVE DISCREPANCIES RELATING TO THIS  
36 SUBSECTION.

37 F. THE POLICIES AND STRATEGIES TO BE DEVELOPED UNDER THESE ELEMENTS  
38 SHALL BE DESIGNED TO HAVE REGIONAL APPLICABILITY.

39 G. FOR COUNTIES WITH TERRITORY IN THE VICINITY OF A MILITARY AIRPORT  
40 OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION  
41 SHALL ALSO CONSIDER MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY  
42 OPERATIONS AND, ON OR BEFORE DECEMBER 31, 2005, SHALL IDENTIFY THE BOUNDARIES  
43 OF ANY HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461 IN  
44 ITS COMPREHENSIVE PLAN FOR PURPOSES OF PLANNING LAND USES IN THE HIGH NOISE  
45 OR ACCIDENT POTENTIAL ZONE THAT ARE COMPATIBLE WITH THE OPERATION OF THE  
46 MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY PURSUANT TO SECTION 28-8481,  
47 SUBSECTION J.

11-805. Comprehensive plan adoption; notice; hearing;  
amendment; expiration; readoption

A. THE BOARD SHALL ADOPT A COMPREHENSIVE PLAN AND SUBSEQUENTLY AMEND OR EXTEND THE ADOPTED PLAN AS PROVIDED BY THIS ARTICLE. ON ADOPTION OR READOPTION, THE PLAN, OR ANY PART OF THE PLAN, SHALL BE THE OFFICIAL GUIDE FOR THE DEVELOPMENT OF THE AREA OF JURISDICTION. ANY CHANGE, AMENDMENT, EXTENSION OR ADDITION OF THE COMPREHENSIVE PLAN MAY BE MADE ONLY PURSUANT TO THIS CHAPTER.

B. THE BOARD OF SUPERVISORS SHALL:

1. ADOPT WRITTEN PROCEDURES TO PROVIDE EFFECTIVE, EARLY AND CONTINUOUS PUBLIC PARTICIPATION IN THE DEVELOPMENT AND MAJOR AMENDMENT OF THE COMPREHENSIVE PLAN FROM ALL GEOGRAPHIC, ETHNIC AND ECONOMIC AREAS OF THE COUNTY. THE PROCEDURES SHALL PROVIDE FOR:

- (a) THE BROAD DISSEMINATION OF PROPOSALS AND ALTERNATIVES.
- (b) THE OPPORTUNITY FOR WRITTEN COMMENTS.
- (c) PUBLIC HEARINGS AFTER EFFECTIVE NOTICE.
- (d) OPEN DISCUSSIONS, COMMUNICATIONS PROGRAMS AND INFORMATION SERVICES.
- (e) CONSIDERATION OF PUBLIC COMMENTS.

2. CONSULT WITH, ADVISE AND PROVIDE AN OPPORTUNITY FOR OFFICIAL COMMENT BY PUBLIC OFFICIALS AND AGENCIES, MUNICIPALITIES, SCHOOL DISTRICTS, ASSOCIATIONS OF GOVERNMENTS, PUBLIC LAND MANAGEMENT AGENCIES, THE MILITARY AIRPORT IF THE COUNTY'S AREA OF JURISDICTION INCLUDES TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, OTHER APPROPRIATE GOVERNMENT JURISDICTIONS, PUBLIC UTILITY COMPANIES, CIVIC, EDUCATIONAL, PROFESSIONAL AND OTHER ORGANIZATIONS, PROPERTY OWNERS AND CITIZENS GENERALLY TO SECURE THE MAXIMUM COORDINATION OF PLANS AND TO INDICATE PROPERLY LOCATED SITES FOR ALL PUBLIC PURPOSES ON THE PLAN.

C. THE COMMISSION SHALL CONFER WITH THE STATE LAND DEPARTMENT AND THE GOVERNING BODIES AND PLANNING COMMISSIONS OF CITIES AND TOWNS IN THE COUNTY FOR THE PURPOSE OF GUIDING AND ACCOMPLISHING A COORDINATED, ADJUSTED AND HARMONIOUS DEVELOPMENT OF THE COUNTY, OF ZONING DISTRICTS, OF URBAN GROWTH AND OF PUBLIC IMPROVEMENTS AND UTILITIES THAT DO NOT BEGIN AND TERMINATE WITHIN THE BOUNDARIES OF ANY SINGLE CITY OR TOWN AND THAT WILL, PURSUANT TO THE PRESENT AND FUTURE NEEDS OF THE COUNTY, BEST PROMOTE WITH EFFICIENCY AND ECONOMY THE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE OR GENERAL WELFARE OF THE PUBLIC.

D. THE COMMISSION SHALL COORDINATE THE PRODUCTION OF THE COMPREHENSIVE PLAN WITH THE CREATION OF THE CONCEPTUAL STATE LAND USE PLANS UNDER TITLE 37, CHAPTER 2, ARTICLE 5.1. THE COMMISSION SHALL COOPERATE WITH THE STATE LAND DEPARTMENT REGARDING INTEGRATING THE CONCEPTUAL STATE LAND USE PLANS INTO THE COMPREHENSIVE PLAN.

E. THE COMMISSION MAY FORMULATE AND DRAFT THE COMPREHENSIVE PLAN AS A WHOLE, OR SEPARATE PARTS OF THE PLAN CORRESPONDING WITH FUNCTIONAL DIVISIONS OF THE SUBJECT MATTER, AND, SUBJECT TO THE LIMITATIONS OF THIS CHAPTER, MAY AMEND, EXTEND OR ADD TO THE COMPREHENSIVE PLAN.

F. AT LEAST SIXTY DAYS BEFORE THE COMPREHENSIVE PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF A COMPREHENSIVE PLAN IS NOTICED PURSUANT TO SUBSECTION G

1 OF THIS SECTION, THE COMMISSION SHALL TRANSMIT THE PROPOSAL TO THE BOARD OF  
2 SUPERVISORS AND SUBMIT A COPY FOR REVIEW AND FURTHER COMMENT TO:

- 3 1. EACH MUNICIPALITY IN THE COUNTY.
- 4 2. EACH OTHER COUNTY THAT IS CONTIGUOUS TO THE COUNTY.
- 5 3. THE REGIONAL PLANNING AGENCY IN THE COUNTY.
- 6 4. THE DEPARTMENT OF COMMERCE OR ANY OTHER STATE AGENCY THAT IS  
7 SUBSEQUENTLY DESIGNATED AS THE GENERAL PLANNING AGENCY FOR THIS STATE.

8 5. THE DEPARTMENT OF WATER RESOURCES FOR REVIEW AND COMMENT ON THE  
9 WATER RESOURCES ELEMENT, IF A WATER RESOURCES ELEMENT IS REQUIRED.

10 6. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR AMENDMENT OF THE  
11 COMPREHENSIVE PLAN IS APPLICABLE TO TERRITORY IN THE VICINITY OF A MILITARY  
12 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE  
13 MILITARY AIRPORT.

14 7. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF THE  
15 COMPREHENSIVE PLAN IS APPLICABLE TO PROPERTY IN THE HIGH NOISE OR ACCIDENT  
16 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS  
17 DEFINED IN SECTION 28-8461, THE ATTORNEY GENERAL. FOR THE PURPOSES OF THIS  
18 PARAGRAPH, "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S  
19 LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE COUNTY'S EXISTING  
20 COMPREHENSIVE PLAN LAND USE ELEMENT FOR THAT AREA OF THE COUNTY.

21 8. ANY PERSON OR ENTITY THAT REQUESTS IN WRITING TO RECEIVE A REVIEW  
22 COPY OF THE PROPOSAL.

23 G. AFTER CONSIDERING ANY RECOMMENDATIONS FROM THE REVIEW REQUIRED  
24 UNDER SUBSECTION F OF THIS SECTION, THE COMMISSION SHALL HOLD AT LEAST ONE  
25 PUBLIC HEARING. NOTICE OF THE TIME AND PLACE OF A HEARING AND AVAILABILITY  
26 OF STUDIES AND SUMMARIES RELATED TO THE HEARING SHALL BE GIVEN AT LEAST  
27 FIFTEEN AND NOT MORE THAN THIRTY CALENDAR DAYS BEFORE THE HEARING BY:

28 1. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN  
29 THE COUNTY SEAT.

30 2. PUBLICATION AT LEAST ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN  
31 THE AREA TO BE AFFECTED, OR ADJACENT TO THE AREA TO BE AFFECTED, IF THE AREA  
32 AFFECTED IS OTHER THAN THE COUNTY SEAT.

33 3. SUCH OTHER MANNER IN ADDITION TO PUBLICATION AS THE COUNTY MAY DEEM  
34 NECESSARY OR DESIRABLE.

35 H. AFTER THE COMMISSION RECOMMENDS THE COMPREHENSIVE PLAN OR ANY  
36 SECTION OF THE PLAN, THE PLAN SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS  
37 FOR ITS CONSIDERATION AND OFFICIAL ACTION.

38 I. BEFORE THE ADOPTION, AMENDMENT OR EXTENSION OF THE PLAN, THE BOARD  
39 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PLAN. AFTER THE BOARD  
40 CONSIDERS THE COMMISSION'S RECOMMENDATION AND ANY RECOMMENDATIONS FROM THE  
41 REVIEW REQUIRED UNDER SUBSECTION F OF THIS SECTION, THE BOARD SHALL HOLD AT  
42 LEAST ONE PUBLIC HEARING AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD  
43 CONCERNING THE MATTERS CONTAINED IN THE PLAN. AT LEAST FIFTEEN DAYS' NOTICE  
44 OF THE HEARING SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL  
45 CIRCULATION IN THE COUNTY SEAT. THE BOARD SHALL CONSIDER PROTESTS AND  
46 OBJECTIONS TO THE PLAN AND MAY CHANGE OR ALTER ANY PORTION OF THE  
47 COMPREHENSIVE PLAN. HOWEVER, BEFORE ANY CHANGE IS MADE, THAT PORTION OF THE

1 PLAN PROPOSED TO BE CHANGED SHALL BE RE-REFERRED TO THE COMMISSION FOR ITS  
2 RECOMMENDATION, WHICH MAY BE ACCEPTED OR REJECTED BY THE BOARD.

3 J. THE BOARD OF SUPERVISORS MAY ADOPT THE COUNTY COMPREHENSIVE PLAN AS  
4 A WHOLE OR BY SUCCESSIVE ACTIONS ADOPT SEPARATE PARTS OF THE PLAN. THE  
5 ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR ANY AMENDMENT TO THE PLAN  
6 SHALL BE BY RESOLUTION OF THE BOARD. THE ADOPTION OR READOPTION OF, OR A  
7 MAJOR AMENDMENT TO, THE COUNTY COMPREHENSIVE PLAN SHALL BE APPROVED BY THE  
8 AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD. ALL  
9 MAJOR AMENDMENTS PROPOSED FOR ADOPTION TO THE COMPREHENSIVE PLAN BY THE BOARD  
10 SHALL BE PRESENTED AT A SINGLE PUBLIC HEARING DURING THE CALENDAR YEAR THE  
11 PROPOSAL IS MADE. THE ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN, AND  
12 ANY MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN, SHALL NOT BE ENACTED AS AN  
13 EMERGENCY MEASURE AND IS SUBJECT TO REFERENDUM AS PROVIDED BY ARTICLE IV,  
14 PART 1, SECTION 1, SUBSECTION (8), CONSTITUTION OF ARIZONA, AND TITLE 19,  
15 CHAPTER 1, ARTICLE 4. FOR THE PURPOSES OF THIS SECTION, "MAJOR AMENDMENT"  
16 MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE AS  
17 ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT FOR  
18 THAT AREA OF THE COUNTY. THE COUNTY'S COMPREHENSIVE PLAN SHALL DEFINE THE  
19 CRITERIA TO DETERMINE IF A PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN  
20 EFFECTS A SUBSTANTIAL ALTERATION OF THE COUNTY'S LAND USE MIXTURE OR BALANCE  
21 AS ESTABLISHED IN THE COUNTY'S EXISTING COMPREHENSIVE PLAN LAND USE ELEMENT  
22 FOR THAT AREA OF THE COUNTY.

23 K. IF THE COUNTY'S AREA OF JURISDICTION INCLUDES PROPERTY IN THE HIGH  
24 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY  
25 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL SEND NOTICE OF THE  
26 APPROVAL, ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT  
27 TO THE COMPREHENSIVE PLAN TO THE ATTORNEY GENERAL BY CERTIFIED MAIL, RETURN  
28 RECEIPT REQUESTED, WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR  
29 READOPTION. IF THE ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR  
30 READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE  
31 PLAN IS NOT IN COMPLIANCE WITH SECTION 28-8481, SUBSECTION J, THE ATTORNEY  
32 GENERAL SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,  
33 OF THE DETERMINATION OF NONCOMPLIANCE. THE BOARD SHALL RECEIVE THE NOTICE  
34 FROM THE ATTORNEY GENERAL WITHIN TWENTY-FIVE DAYS AFTER THE NOTICE FROM THE  
35 BOARD TO THE ATTORNEY GENERAL IS MAILED PURSUANT TO THIS SUBSECTION. THE  
36 EFFECTIVE DATE OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT  
37 TO, THE COMPREHENSIVE PLAN SHALL BE THIRTY DAYS AFTER THE BOARD'S RECEIPT OF  
38 THE ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE. WITHIN THIRTY DAYS  
39 AFTER THE RECEIPT OF A DETERMINATION OF NONCOMPLIANCE BY THE ATTORNEY GENERAL  
40 AS PRESCRIBED BY THIS SECTION, THE BOARD SHALL RECONSIDER ANY APPROVAL,  
41 ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE COMPREHENSIVE PLAN THAT  
42 IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY  
43 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461. IF THE  
44 BOARD REAFFIRMS A PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION  
45 OF NONCOMPLIANCE PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE  
46 A CIVIL ACTION PURSUANT TO SECTION 28-8481, SUBSECTION L. IF THE BOARD  
47 TIMELY SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL  
48 FAILS TO TIMELY NOTIFY THE BOARD OF A DETERMINATION OF NONCOMPLIANCE, THE

1 COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN IS DEEMED TO  
2 COMPLY WITH SECTION 28-8481, SUBSECTION J. FOR THE PURPOSES OF THIS  
3 SUBSECTION "MAJOR AMENDMENT" HAS THE SAME MEANING PRESCRIBED IN SUBSECTION J  
4 OF THIS SECTION.

5 L. IF THE MOTION TO ADOPT OR READOPT THE PLAN OR AN AMENDMENT TO THE  
6 PLAN FAILS TO PASS, THE BOARD MAY RECONSIDER THE MOTION IN ANY MANNER ALLOWED  
7 BY THE BOARD'S RULES OF PROCEDURE, BUT ANY SUBSEQUENT MOTION FOR THE ADOPTION  
8 OR READOPTION OF THE PLAN OR A MAJOR AMENDMENT TO THE PLAN MUST BE APPROVED  
9 BY AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS OF THE BOARD.  
10 IF THE BOARD FAILS TO ADOPT OR READOPT THE PLAN, THE CURRENT PLAN REMAINS IN  
11 EFFECT UNTIL A NEW PLAN IS ADOPTED. THE BOARD SHALL EITHER RECONSIDER THE  
12 PROPOSED PLAN OR CONSIDER A REVISED PLAN WITHIN ONE YEAR AND SHALL CONTINUE  
13 TO DO SO UNTIL ONE IS ADOPTED. ALL SUBSEQUENT CONSIDERATIONS OF A NEW OR  
14 REVISED PLAN MUST COMPLY WITH THE PROCEDURES PRESCRIBED BY THIS ARTICLE.

15 M. A COUNTY COMPREHENSIVE PLAN, WITH ANY AMENDMENTS, IS EFFECTIVE FOR  
16 UP TO TEN YEARS FROM THE DATE THE PLAN WAS INITIALLY ADOPTED OR UNTIL THE  
17 PLAN IS READOPTED OR A NEW PLAN IS ADOPTED PURSUANT TO THIS SUBSECTION AND  
18 BECOMES EFFECTIVE. ON OR BEFORE THE TENTH ANNIVERSARY OF THE PLAN'S MOST  
19 RECENT ADOPTION, THE BOARD SHALL EITHER READOPT THE EXISTING PLAN FOR AN  
20 ADDITIONAL TERM OF UP TO TEN YEARS OR SHALL ADOPT A NEW COMPREHENSIVE PLAN AS  
21 PROVIDED BY THIS ARTICLE.

22 11-806. Rural planning areas; rural planning zones; formation

23 A. IN COUNTIES WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND  
24 PERSONS, THE BOARD OF SUPERVISORS SHALL RECEIVE PETITIONS TO FORM A RURAL  
25 PLANNING AREA THAT ARE SIGNED BY PERSONS WHO OWN REAL PROPERTY IN ANY  
26 SPECIFIC PORTION OF THE COUNTY OUTSIDE THE CORPORATE BOUNDARIES OF ANY CITIES  
27 AND TOWNS. OWNERS OF A MAJORITY OF THE ACRES OF REAL PROPERTY IN THE  
28 PROPOSED PLANNING AREA MUST SIGN THE PETITION. PARTICIPATION IN THE RURAL  
29 PLANNING AREA IS VOLUNTARY, AND ANY PERSON MAY WITHDRAW REAL PROPERTY OWNED  
30 BY THE PERSON FROM THE PLANNING AREA. THE BOARD OF SUPERVISORS SHALL  
31 ENCOURAGE VOLUNTARY PARTICIPATION IN THE PLANNING AREA AND SHALL AID THE  
32 PLANNING AREAS IN PROVIDING A SOUND FACTUAL AND POLICY BASIS FOR PLANNING.  
33 THE RECOMMENDATIONS OF RURAL PLANNING AREAS SHALL EMPHASIZE VOLUNTARY,  
34 NONREGULATORY INCENTIVES FOR COMPLIANCE AND ACCOMMODATION OF CONTINUING  
35 TRADITIONAL RURAL AND AGRICULTURAL ENTERPRISES. RURAL PLANNING AREAS SHALL  
36 TRANSMIT THEIR RECOMMENDATIONS TO THE BOARD OF SUPERVISORS FOR ITS  
37 CONSIDERATION FOR INCLUSION IN THE COUNTY COMPREHENSIVE PLAN.

38 B. IN ANY COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND  
39 PERSONS, ANY CITIES AND TOWNS AND THE COUNTY SHARING A MULTIJURISDICTIONAL  
40 AREA WITH A COMBINED POPULATION OF MORE THAN FIFTY THOUSAND BUT LESS THAN ONE  
41 HUNDRED THOUSAND PERSONS, ACCORDING TO THE MOST RECENT DEPARTMENT OF ECONOMIC  
42 SECURITY ESTIMATES, MAY VOLUNTARILY FORM RURAL PLANNING ZONES TO DEVELOP  
43 COORDINATED AND COMPREHENSIVE REGIONAL PLANS.

44 11-807. Specific zoning plans; adoption; administration;  
45 contents

46 A. THE BOARD OR COMMISSION OF A COUNTY WITH A POPULATION OF LESS THAN  
47 ONE MILLION PERSONS MAY PREPARE SPECIFIC ZONING PLANS FOR DESIGNATED PARCELS  
48 OF LAND, WHICH SHALL INCLUDE A TEXT AND MAPS OF A LAND USE PLAN AND SPECIFIC

1 ZONING, SIGN, STREET AND OTHER REGULATIONS FOR IMPLEMENTATION OF THE COUNTY  
2 MASTER PLANS. ALL PROPERTY OWNERS WITHIN THE BOUNDARIES OF THE SPECIFIC  
3 ZONING PLAN SHALL GIVE WRITTEN CONSENT BEFORE THE PLAN MAY BE ESTABLISHED. A  
4 SPECIFIC ZONING PLAN SHALL NOT BE ADOPTED IF IT CREATES AN AREA THAT IS NOT  
5 WITHIN THE PLAN BUT IS COMPLETELY SURROUNDED BY THE PLAN BOUNDARIES.

6 B. A SPECIFIC ZONING PLAN MAY BE ADOPTED OR AMENDED AFTER NOTICE AND  
7 HEARINGS BEFORE THE COMMISSION AND BOARD AS PROVIDED IN SECTION 11-813. IF  
8 THE BOARD ADOPTS A SPECIFIC ZONING PLAN, IT SHALL ESTABLISH ADMINISTRATIVE  
9 RULES AND PROCEDURES FOR THE APPLICATION AND ENFORCEMENT OF THE PLAN AND MAY  
10 ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES FOR THE PLAN  
11 TO COUNTY OFFICERS AND OFFICIALS.

12 C. A SPECIFIC ZONING PLAN SHALL INCLUDE TEXT, MAPS AND ILLUSTRATIONS  
13 SPECIFYING ALL OF THE FOLLOWING:

14 1. THE DISTRIBUTION, LOCATION AND EXTENT OF LAND USES, INCLUDING OPEN  
15 SPACE.

16 2. THE DISTRIBUTION, LOCATION, EXTENT AND INTENSITY OF MAJOR  
17 COMPONENTS OF PUBLIC AND PRIVATE TRANSPORTATION, SEWAGE AND SOLID WASTE  
18 DISPOSAL, DRAINAGE AND OTHER FACILITIES NECESSARY TO PROVIDE FOR THE LAND  
19 USES DESCRIBED IN THE SPECIFIC ZONING PLAN.

20 3. STANDARDS BY WHICH DEVELOPMENT SHALL PROCEED AND, IF APPLICABLE,  
21 REQUIREMENTS FOR CONSERVATION, DEVELOPMENT AND UTILIZATION OF NATURAL  
22 RESOURCES. 4. A STATEMENT OF WHETHER THE SPECIFIC ZONING PLAN IS CONSISTENT  
23 WITH THE COMPREHENSIVE PLAN REQUIRED BY SECTION 11-804.

24 5. ANY OTHER MATTERS NECESSARY OR DESIRABLE FOR IMPLEMENTATION OF THE  
25 SPECIFIC ZONING PLAN.

26 D. ALL SPECIFIC ZONING PLANS ADOPTED UNDER THIS ARTICLE SHALL BE  
27 CONSISTENT WITH AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN.

28 11-808. Infrastructure service area boundaries; notice;  
29 hearing; adoption

30 A. THE COUNTY PLANNING AND ZONING COMMISSION MAY PREPARE A PLAN AND  
31 PROVIDE REGULATIONS DETERMINING THE LOCATION OF INFRASTRUCTURE SERVICE AREA  
32 BOUNDARIES CONSISTENT WITH THE GROWTH AREA ELEMENT OF THE COMPREHENSIVE PLAN  
33 BEYOND WHICH THE COUNTY MAY LIMIT OR PRESCRIBE CONDITIONS ON PUBLICLY  
34 FINANCED EXTENSIONS OF WATER, SEWER AND STREET IMPROVEMENTS. THE PLAN AND  
35 REGULATIONS SHALL CONSIDER ALL ELEMENTS OF THE COMPREHENSIVE PLAN, INCLUDING  
36 THE CIRCULATION AND PUBLIC FACILITIES ELEMENTS. FOR THE PURPOSES OF THIS  
37 SUBSECTION, PUBLICLY FINANCED DOES NOT INCLUDE SPECIAL TAXING DISTRICT  
38 FINANCING OTHER THAN MUNICIPAL OR COUNTY IMPROVEMENT DISTRICT REVENUES OR  
39 BONDS. THE REGULATIONS SHALL ALSO INCLUDE COMPONENTS THAT:

40 1. ASSIGN OR DELEGATE ADMINISTRATIVE FUNCTIONS, POWERS AND DUTIES TO  
41 COUNTY OFFICERS AND EMPLOYEES.

42 2. IDENTIFY THE PROCEDURE FOR DETERMINING THE INITIAL INFRASTRUCTURE  
43 SERVICE AREA BOUNDARIES.

44 3. IDENTIFY THE METHODOLOGY AND PROCEDURES FOR ADJUSTING THE  
45 INFRASTRUCTURE SERVICE AREA BOUNDARIES.

46 B. BEFORE RECOMMENDING THE PLAN AND REGULATIONS, OR ANY PART,  
47 AMENDMENT, EXTENSION OR ADDITION, TO THE BOARD OF SUPERVISORS, THE COMMISSION  
48 SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE SERVICE AREA BOUNDARIES, AFTER

1 GIVING AT LEAST FIFTEEN DAYS' NOTICE BY PUBLICATION IN A NEWSPAPER OF GENERAL  
2 CIRCULATION IN THE COUNTY SEAT AND IN A NEWSPAPER OF GENERAL CIRCULATION IN  
3 THE AREA TO BE AFFECTED, IF THAT AREA IS OTHER THAN THE COUNTY SEAT.

4 C. THE BOARD OF SUPERVISORS SHALL ADOPT ANY SUCH PLAN AND REGULATIONS  
5 AND AMENDMENTS BY RESOLUTION.

6 ARTICLE 2. COUNTY ZONING

7 11-811. Zoning ordinance; zoning districts; definitions

8 A. PURSUANT TO THIS ARTICLE, THE BOARD OF SUPERVISORS MAY ADOPT A  
9 ZONING ORDINANCE IN ORDER TO CONSERVE AND PROMOTE THE PUBLIC HEALTH, SAFETY  
10 AND GENERAL WELFARE. THE ZONING ORDINANCE AND ALL REZONINGS AND ZONING  
11 REGULATIONS AMENDMENTS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT WITH  
12 AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN ADDITION TO THE OTHER  
13 MATTERS THAT ARE REQUIRED OR AUTHORIZED UNDER THIS SECTION AND ARTICLE 1 OF  
14 THIS CHAPTER, THE ZONING ORDINANCE:

15 1. SHALL SHOW THE ZONING DISTRICTS DESIGNATED AS APPROPRIATE FOR  
16 VARIOUS CLASSES OF RESIDENTIAL, BUSINESS AND INDUSTRIAL USES AND SHALL  
17 PROVIDE FOR THE ESTABLISHMENT OF SETBACK LINES AND OTHER PLANS PROVIDING FOR  
18 ADEQUATE LIGHT, AIR AND PARKING FACILITIES AND FOR EXPEDITING TRAFFIC WITHIN  
19 THE DISTRICTS.

20 2. MAY ESTABLISH THE PERCENTAGE OF A LOT OR PARCEL THAT MAY BE COVERED  
21 BY BUILDINGS AND THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES.

22 3. SHALL CONSIDER ACCESS TO INCIDENT SOLAR ENERGY.

23 4. MAY PROVIDE FOR RETIREMENT COMMUNITY ZONING DISTRICTS.

24 5. MAY PROVIDE FOR THE REGULATION AND USE OF BUSINESS LICENSES, ADULT  
25 ORIENTED BUSINESS MANAGER PERMITS AND ADULT SERVICE PROVIDER PERMITS IN  
26 CONJUNCTION WITH THE ESTABLISHMENT OR OPERATION OF ADULT ORIENTED BUSINESSES  
27 AND FACILITIES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES OR VIDEO STORES,  
28 CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION PICTURE  
29 THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS AND NUDE MODEL STUDIOS.  
30 WITH RESPECT TO CABARETS, THE ORDINANCE SHALL NOT CONFLICT WITH SPECIFIC  
31 STATUTORY OR VALID REGULATORY REQUIREMENTS APPLICABLE TO PERSONS LICENSED TO  
32 DISPENSE ALCOHOLIC BEVERAGES, BUT THE ORDINANCE MAY INCLUDE REGULATION OF THE  
33 AGE AND CONDUCT OF EROTIC ENTERTAINERS IN A MANNER AT LEAST AS RESTRICTIVE AS  
34 RULES ADOPTED UNDER TITLE 4. NOTWITHSTANDING SECTION 11-812, A COUNTY IN  
35 REGULATING OR LICENSING BUSINESSES AND FACILITIES PURSUANT TO THIS PARAGRAPH  
36 MAY IMPOSE REASONABLE OPERATING REQUIREMENTS THAT AFFECT THE EXISTING USES OF  
37 BUSINESSES AND FACILITIES.

38 6. SHALL DESIGNATE AND ZONE APPROPRIATE AREAS OF REASONABLE SIZE IN  
39 WHICH THERE MAY BE ESTABLISHED WITH REASONABLE PERMANENCY CANNERIES,  
40 FERTILIZER PLANTS, REFINERIES, COMMERCIAL FEED LOTS, MEAT PACKING PLANTS,  
41 TALLOW WORKS AND OTHER LIKE BUSINESSES.

42 B. TO CARRY OUT THE PURPOSES OF THIS ARTICLE, THE BOARD MAY ADOPT  
43 OVERLAY ZONING DISTRICTS AND REGULATIONS APPLICABLE TO PARTICULAR BUILDINGS,  
44 STRUCTURES AND LAND WITHIN INDIVIDUAL ZONES. FOR THE PURPOSES OF THIS  
45 SUBSECTION, "OVERLAY ZONING DISTRICT" MEANS A SPECIAL ZONING DISTRICT THAT  
46 INCLUDES REGULATIONS THAT MODIFY REGULATIONS IN ANOTHER ZONING DISTRICT WITH  
47 WHICH THE OVERLAY ZONING DISTRICT IS COMBINED. OVERLAY ZONING DISTRICTS AND  
48 REGULATIONS SHALL BE ADOPTED PURSUANT TO SECTION 11-813. THE PROVISIONS OF



1 OVERLAY ZONING SHALL APPLY RETROACTIVELY TO AUTHORIZE OVERLAY ZONING  
2 DISTRICTS AND REGULATIONS ADOPTED BEFORE APRIL 20, 1993.

3 C. THIS SECTION DOES NOT AUTHORIZE:

4 1. THE IMPOSITION OF DEDICATIONS, EXACTIONS, FEES OR OTHER  
5 REQUIREMENTS THAT ARE NOT OTHERWISE AUTHORIZED BY LAW.

6 2. THE REGULATION OR RESTRICTION OF THE USE OR OCCUPATION OF LAND OR  
7 IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL  
8 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS  
9 COMMERCIAL ACRES.

10 D. FOR THE PURPOSES OF THIS SECTION:

11 1. "ADULT ARCADE" MEANS ANY PLACE TO WHICH THE PUBLIC IS PERMITTED OR  
12 INVITED AND IN WHICH COIN-OPERATED OR SLUG-OPERATED OR ELECTRONICALLY,  
13 ELECTRICALLY OR MECHANICALLY CONTROLLED STILL OR MOTION PICTURE MACHINES,  
14 PROJECTORS OR OTHER IMAGE PRODUCING DEVICES ARE MAINTAINED TO SHOW IMAGES  
15 INVOLVING SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS TO PERSONS  
16 IN BOOTHS OR VIEWING ROOMS.

17 2. "ADULT BOOKSTORE OR VIDEO STORE" MEANS A COMMERCIAL ESTABLISHMENT  
18 THAT OFFERS FOR SALE OR RENT ANY OF THE FOLLOWING AS ONE OF ITS PRINCIPAL  
19 BUSINESS PURPOSES:

20 (a) BOOKS, MAGAZINES, PERIODICALS OR OTHER PRINTED MATTER,  
21 PHOTOGRAPHS, FILMS, MOTION PICTURES, VIDEOCASSETTES OR REPRODUCTIONS OR  
22 SLIDES OR OTHER VISUAL REPRESENTATIONS THAT DEPICT OR DESCRIBE SPECIFIC  
23 SEXUAL ACTIVITIES OR SPECIFIC ANATOMICAL AREAS.

24 (b) INSTRUMENTS, DEVICES OR PARAPHERNALIA THAT ARE DESIGNED FOR USE IN  
25 CONNECTION WITH SPECIFIC SEXUAL ACTIVITIES.

26 3. "ADULT LIVE ENTERTAINMENT ESTABLISHMENT" MEANS AN ESTABLISHMENT  
27 THAT FEATURES EITHER:

28 (a) PERSONS WHO APPEAR IN A STATE OF NUDITY.

29 (b) LIVE PERFORMANCES THAT ARE CHARACTERIZED BY THE EXPOSURE OF  
30 SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL ACTIVITIES.

31 4. "ADULT MOTION PICTURE THEATER" MEANS A COMMERCIAL ESTABLISHMENT IN  
32 WHICH FOR ANY FORM OF CONSIDERATION FILMS, MOTION PICTURES, VIDEOCASSETTES,  
33 SLIDES OR OTHER SIMILAR PHOTOGRAPHIC REPRODUCTIONS THAT ARE CHARACTERIZED BY  
34 THE DEPICTION OR DESCRIPTION OF SPECIFIC SEXUAL ACTIVITIES OR SPECIFIC  
35 ANATOMICAL AREAS ARE PREDOMINANTLY SHOWN.

36 5. "ADULT ORIENTED BUSINESS" MEANS ADULT ARCADES, ADULT BOOKSTORES OR  
37 VIDEO STORES, CABARETS, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION  
38 PICTURE THEATERS, ADULT THEATERS, MASSAGE ESTABLISHMENTS THAT OFFER ADULT  
39 SERVICE OR NUDE MODEL STUDIOS.

40 6. "ADULT ORIENTED BUSINESS MANAGER" MEANS A PERSON ON THE PREMISES OF  
41 AN ADULT ORIENTED BUSINESS WHO IS AUTHORIZED TO EXERCISE OVERALL OPERATIONAL  
42 CONTROL OF THE BUSINESS.

43 7. "ADULT SERVICE" MEANS DANCING, SERVING FOOD OR BEVERAGES, MODELING,  
44 POSING, WRESTLING, SINGING, READING, TALKING, LISTENING OR OTHER PERFORMANCES  
45 OR ACTIVITIES CONDUCTED FOR ANY CONSIDERATION IN AN ADULT ORIENTED BUSINESS  
46 BY A PERSON WHO IS NUDE OR SEMINUDE DURING ALL OR PART OF THE TIME THAT THE  
47 PERSON IS PROVIDING THE SERVICE.

1           8. "ADULT SERVICE PROVIDER" OR "EROTIC ENTERTAINER" MEANS ANY NATURAL  
2 PERSON WHO PROVIDES AN ADULT SERVICE.

3           9. "ADULT THEATER" MEANS A THEATER, CONCERT HALL, AUDITORIUM OR  
4 SIMILAR COMMERCIAL ESTABLISHMENT THAT PREDOMINANTLY FEATURES PERSONS WHO  
5 APPEAR IN A STATE OF NUDITY OR WHO ENGAGE IN LIVE PERFORMANCES THAT ARE  
6 CHARACTERIZED BY THE EXPOSURE OF SPECIFIC ANATOMICAL AREAS OR SPECIFIC SEXUAL  
7 ACTIVITIES.

8           10. "CABARET" MEANS AN ADULT ORIENTED BUSINESS LICENSED TO PROVIDE  
9 ALCOHOLIC BEVERAGES PURSUANT TO TITLE 4, CHAPTER 2, ARTICLE 1.

10          11. "DISCERNIBLY TURGID STATE" MEANS THE STATE OF BEING VISIBLY  
11 SWOLLEN, BLOATED, INFLATED OR DISTENDED.

12          12. "MESSAGE ESTABLISHMENT" MEANS AN ESTABLISHMENT IN WHICH A PERSON,  
13 FIRM, ASSOCIATION OR CORPORATION ENGAGES IN OR PERMITS MESSAGE ACTIVITIES,  
14 INCLUDING ANY METHOD OF PRESSURE ON, FRICTION AGAINST, STROKING, KNEADING,  
15 RUBBING, TAPPING, POUNDING, VIBRATING OR STIMULATING OF EXTERNAL SOFT PARTS  
16 OF THE BODY WITH THE HANDS OR WITH THE AID OF ANY MECHANICAL APPARATUS OR  
17 ELECTRICAL APPARATUS OR APPLIANCE. THIS PARAGRAPH DOES NOT APPLY TO:

18           (a) PHYSICIANS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 7, 8, 13,  
19 14 OR 17.

20           (b) REGISTERED NURSES, LICENSED PRACTICAL NURSES OR TECHNICIANS WHO ARE  
21 ACTING UNDER THE SUPERVISION OF A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE  
22 32, CHAPTER 13 OR 17.

23           (c) REGISTERED NURSE PRACTITIONERS WHO ARE LICENSED PURSUANT TO TITLE  
24 32, CHAPTER 15.

25           (d) PERSONS WHO ARE EMPLOYED OR ACTING AS TRAINERS FOR A BONA FIDE  
26 AMATEUR, SEMIPROFESSIONAL OR PROFESSIONAL ATHLETE OR ATHLETIC TEAM.

27           (e) PERSONS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 3 OR 5 IF  
28 THE ACTIVITY IS LIMITED TO THE HEAD, FACE OR NECK.

29          13. "NUDE MODEL STUDIO" MEANS A PLACE IN WHICH A PERSON WHO APPEARS IN  
30 A STATE OF NUDITY OR WHO DISPLAYS SPECIFIC ANATOMICAL AREAS IS OBSERVED,  
31 SKETCHED, DRAWN, PAINTED, SCULPTURED, PHOTOGRAPHED OR OTHERWISE DEPICTED BY  
32 OTHER PERSONS WHO PAY MONEY OR OTHER CONSIDERATION. NUDE MODEL STUDIO DOES  
33 NOT INCLUDE A PROPRIETARY SCHOOL THAT IS LICENSED BY THIS STATE, A COLLEGE,  
34 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY  
35 TAXATION, A PRIVATE COLLEGE OR UNIVERSITY THAT MAINTAINS AND OPERATES  
36 EDUCATIONAL PROGRAMS IN WHICH CREDITS ARE TRANSFERABLE TO A COLLEGE,  
37 COMMUNITY COLLEGE OR UNIVERSITY THAT IS SUPPORTED ENTIRELY OR IN PART BY  
38 TAXATION OR A STRUCTURE TO WHICH THE FOLLOWING APPLY:

39           (a) A SIGN IS NOT VISIBLE FROM THE EXTERIOR OF THE STRUCTURE AND NO  
40 OTHER ADVERTISING APPEARS INDICATING THAT A NUDE PERSON IS AVAILABLE FOR  
41 VIEWING.

42           (b) A STUDENT MUST ENROLL AT LEAST THREE DAYS IN ADVANCE OF A CLASS IN  
43 ORDER TO PARTICIPATE.

44           (c) NO MORE THAN ONE NUDE OR SEMINUDE MODEL IS ON THE PREMISES AT ANY  
45 TIME.

46          14. "NUDE", "NUDITY" OR "STATE OF NUDITY" MEANS ANY OF THE FOLLOWING:

47           (a) THE APPEARANCE OF A HUMAN ANUS, GENITALS OR A FEMALE BREAST BELOW A  
48 POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA.

1 (b) A STATE OF DRESS THAT FAILS TO OPAQUELY COVER A HUMAN ANUS,  
2 GENITALS OR A FEMALE BREAST BELOW A POINT IMMEDIATELY ABOVE THE TOP OF THE  
3 AREOLA.

4 15. "PRINCIPAL BUSINESS PURPOSES" MEANS THAT A COMMERCIAL ESTABLISHMENT  
5 DERIVES FIFTY PER CENT OR MORE OF ITS GROSS INCOME FROM THE SALE OR RENTAL OF  
6 ITEMS LISTED IN PARAGRAPH 2 OF THIS SUBSECTION.

7 16. "SEMINUDE" MEANS A STATE OF DRESS IN WHICH CLOTHING COVERS NO MORE  
8 THAN THE GENITALS, PUBIC REGION AND FEMALE BREAST BELOW A POINT IMMEDIATELY  
9 ABOVE THE TOP OF THE AREOLA, AS WELL AS PORTIONS OF THE BODY THAT ARE COVERED  
10 BY SUPPORTING STRAPS OR DEVICES.

11 17. "SPECIFIC ANATOMICAL AREAS" MEANS ANY OF THE FOLLOWING:

12 (a) A HUMAN ANUS, GENITALS, THE PUBIC REGION OR A FEMALE BREAST BELOW A  
13 POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA THAT IS LESS THAN COMPLETELY  
14 AND OPAQUELY COVERED.

15 (b) MALE GENITALS IN A DISCERNIBLY TURGID STATE EVEN IF COMPLETELY AND  
16 OPAQUELY COVERED.

17 18. "SPECIFIC SEXUAL ACTIVITIES" MEANS ANY OF THE FOLLOWING:

18 (a) HUMAN GENITALS IN A STATE OF SEXUAL STIMULATION OR AROUSAL.

19 (b) SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED, INCLUDING ACTS  
20 OF HUMAN MASTURBATION, SEXUAL INTERCOURSE, ORAL COPULATION OR SODOMY.

21 (c) FONDLING OR OTHER EROTIC TOUCHING OF THE HUMAN GENITALS, PUBIC  
22 REGION, BUTTOCKS, ANUS OR FEMALE BREAST.

23 (d) EXCRETORY FUNCTIONS AS PART OF OR IN CONNECTION WITH ANY OF THE  
24 ACTIVITIES UNDER SUBDIVISION (a), (b) OR (c) OF THIS PARAGRAPH.

25 11-812. Restriction on regulation; exceptions; aggregate mining  
26 regulation; definitions

27 A. NOTHING CONTAINED IN ANY ORDINANCE AUTHORIZED BY THIS CHAPTER  
28 SHALL:

29 1. AFFECT EXISTING USES OF PROPERTY OR THE RIGHT TO ITS CONTINUED USE  
30 OR THE REASONABLE REPAIR OR ALTERATION OF THE PROPERTY FOR THE PURPOSE FOR  
31 WHICH USED AT THE TIME THE ORDINANCE AFFECTING THE PROPERTY TAKES EFFECT.

32 2. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF  
33 LAND OR IMPROVEMENTS FOR RAILROAD, MINING, METALLURGICAL, GRAZING OR GENERAL  
34 AGRICULTURAL PURPOSES, IF THE TRACT CONCERNED IS FIVE OR MORE CONTIGUOUS  
35 COMMERCIAL ACRES. FOR THE PURPOSES OF THIS PARAGRAPH, "MINING" HAS THE SAME  
36 MEANING PRESCRIBED IN SECTION 27-301.

37 3. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF  
38 LAND OR IMPROVEMENTS FOR AGRICULTURAL COMPOSTING, IF THE TRACT IS FIVE OR  
39 MORE CONTIGUOUS COMMERCIAL ACRES. AN AGRICULTURAL COMPOSTING OPERATION SHALL  
40 NOTIFY IN WRITING THE BOARD OF SUPERVISORS AND THE NEAREST FIRE DEPARTMENT OF  
41 THE LOCATION OF THE COMPOSTING OPERATION. IF THE NEAREST FIRE DEPARTMENT IS  
42 LOCATED IN A CITY, TOWN OR FIRE DISTRICT WHERE THE AGRICULTURAL COMPOSTING IS  
43 NOT LOCATED, THE AGRICULTURAL COMPOSTING OPERATION SHALL ALSO NOTIFY IN  
44 WRITING THE FIRE DISTRICT IN WHICH THE OPERATION IS LOCATED. AGRICULTURAL  
45 COMPOSTING IS SUBJECT TO SECTIONS 3-112 AND 49-141. FOR THE PURPOSES OF THIS  
46 PARAGRAPH, "AGRICULTURAL COMPOSTING" HAS THE SAME MEANING PRESCRIBED IN  
47 SECTION 9-462.01, SUBSECTION G.

1           B. A NONCONFORMING BUSINESS USE WITHIN A DISTRICT MAY EXPAND IF THE  
2           EXPANSION DOES NOT EXCEED ONE HUNDRED PER CENT OF THE AREA OF THE ORIGINAL  
3           BUSINESS.

4           C. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION,  
5           MINING DOES NOT INCLUDE AGGREGATE MINING OPERATIONS IN AN AGGREGATE MINING  
6           OPERATIONS ZONING DISTRICT ESTABLISHED PURSUANT TO THIS SECTION. THE BOARD  
7           OF SUPERVISORS OF ANY COUNTY WITH A POPULATION OF MORE THAN TWO MILLION  
8           PERSONS SHALL DESIGNATE AND ESTABLISH THE BOUNDARIES OF AN AGGREGATE MINING  
9           OPERATIONS ZONING DISTRICT ON THE PETITION OF AT LEAST ONE HUNDRED PERSONS  
10          WHO RESIDE WITHIN ONE-HALF MILE OF AN EXISTING AGGREGATE MINING OPERATION.  
11          IN ADDITION, THE BOARD OF SUPERVISORS OF ANY COUNTY MAY ESTABLISH, IN ITS  
12          DISCRETION AND ON THE BOARD'S INITIATIVE, ONE OR MORE AGGREGATE MINING  
13          OPERATIONS ZONING DISTRICTS. AGGREGATE MINING OPERATIONS ZONING DISTRICTS  
14          MAY ONLY BE LOCATED IN AREAS THAT ARE INVENTORIED AND MAPPED AS AREAS OF  
15          KNOWN RESERVES OR IN AREAS WITH EXISTING AGGREGATE MINING OPERATIONS.  
16          SUBJECT TO SUBSECTIONS E AND F OF THIS SECTION, A COUNTY AND THE STATE MINE  
17          INSPECTOR MAY JOINTLY ADOPT, AS INTERNAL ADMINISTRATIVE REGULATIONS,  
18          REASONABLE AGGREGATE MINING OPERATIONS ZONING DISTRICT STANDARDS LIMITED TO  
19          PERMITTED USES, PROCEDURES FOR APPROVAL OF PROPERTY DEVELOPMENT PLANS AND  
20          SITE DEVELOPMENT STANDARDS FOR DUST CONTROL, HEIGHT REGULATIONS, SETBACKS,  
21          DAYS AND HOURS OF OPERATION, OFF-STREET PARKING, SCREENING, NOISE, VIBRATION  
22          AND AIR POLLUTION CONTROL, SIGNS, ROADWAY ACCESS LANES, ARTERIAL HIGHWAY  
23          PROTECTION AND PROPERTY RECLAMATION FOR WHICH AGGREGATE MINING OPERATIONS ARE  
24          NOT OTHERWISE SUBJECT TO FEDERAL, STATE OR LOCAL REGULATION OR A GOVERNMENTAL  
25          CONTRACTUAL OBLIGATION. REGULATIONS JOINTLY ADOPTED PURSUANT TO THIS  
26          SUBSECTION BY THE COUNTY AND THE STATE MINE INSPECTOR SHALL NOT PROHIBIT THE  
27          ACTIVITIES INCLUDED IN THE DEFINITION OF MINE PURSUANT TO SECTION 27-301,  
28          PARAGRAPH 8 OR DUPLICATE, CONFLICT WITH OR BE MORE STRINGENT THAN APPLICABLE  
29          FEDERAL, STATE OR LOCAL LAWS.

30          D. THE BOARD OF SUPERVISORS OF ANY COUNTY THAT ESTABLISHES AN  
31          AGGREGATE MINING OPERATIONS ZONING DISTRICT SHALL APPOINT AN AGGREGATE MINING  
32          OPERATIONS RECOMMENDATION COMMITTEE FOR THE DISTRICT. THE COMMITTEE CONSISTS  
33          OF NOT MORE THAN SEVEN OPERATORS, OR REPRESENTATIVES OF OPERATORS, OF ACTIVE  
34          AGGREGATE MINING OPERATIONS IN ANY DISTRICT WITHIN THE COUNTY AND AN EQUAL  
35          NUMBER OF PRIVATE CITIZENS, WHO ARE NOT OPERATORS, WHO ARE NOT EMPLOYED BY  
36          OPERATORS AND WHO DO NOT REPRESENT OPERATORS, RESIDING WITHIN THREE MILES OF  
37          THE BOUNDARIES OF AGGREGATE MINING OPERATIONS OR A PROPOSED AGGREGATE MINING  
38          OPERATION IN THE DISTRICT FOR WHICH THE COMMITTEE IS ESTABLISHED. THE  
39          INITIAL MEMBERS APPOINTED TO THE COMMITTEE SHALL BE DEEMED THE PRIMARY  
40          MEMBERS, AND THE BOARD OF SUPERVISORS SHALL APPOINT NO MORE THAN FIVE  
41          ALTERNATE MEMBERS WHO REPRESENT OPERATORS AND SHALL APPOINT NO MORE THAN FIVE  
42          ALTERNATE MEMBERS WHO ARE PRIVATE CITIZENS. ALTERNATE MEMBERS MAY SERVE AT  
43          MEETINGS OF THE COMMITTEE WHEN A PRIMARY MEMBER IS UNABLE TO ATTEND. AN  
44          AGGREGATE MINING OPERATOR MAY SERVE ON MORE THAN ONE COMMITTEE IN THE SAME  
45          COUNTY. THE BOARD OF SUPERVISORS SHALL DETERMINE THE LENGTH OF TERMS OF  
46          MEMBERS OF THE COMMITTEE AND SHALL STAGGER THE INITIAL APPOINTMENTS SO THAT  
47          NOT ALL MEMBERS' TERMS EXPIRE AT THE SAME TIME. MEMBERS OF THE COMMITTEE WHO  
48          NO LONGER QUALIFY FOR MEMBERSHIP AS PROVIDED BY THIS SUBSECTION ARE SUBJECT

1 TO REMOVAL AND REPLACEMENT BY THE BOARD OF SUPERVISORS. THE COMMITTEE SHALL  
2 ELECT A MEMBER WHO IS AN AGGREGATE MINING OPERATOR TO SERVE AS CHAIRPERSON  
3 FOR THE FIRST YEAR IN WHICH THE COMMITTEE IS CREATED. FOR EACH YEAR  
4 THEREAFTER, THE CHAIRPERSON SHALL BE ELECTED BY THE MEMBERS OF THE COMMITTEE  
5 WITH A MEMBER WHO IS A PRIVATE CITIZEN AND A MEMBER WHO IS AN AGGREGATE  
6 MINING OPERATOR SERVING AS CHAIRPERSON IN ALTERNATE YEARS. THE COMMITTEE IS  
7 SUBJECT TO THE OPEN MEETING REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

8 E. WITHIN NINETY DAYS AFTER AN AGGREGATE MINING OPERATIONS  
9 RECOMMENDATION COMMITTEE IS ESTABLISHED, THE COMMITTEE SHALL NOTIFY ALL  
10 EXISTING AGGREGATE MINING OPERATORS IN THE DISTRICT OF THE APPLICATION OF  
11 THIS SECTION AND TITLE 27, CHAPTER 3, ARTICLE 6 TO THE AGGREGATE MINING  
12 OPERATION. IN ADDITION, THE COMMITTEE SHALL:

13 1. BY A MAJORITY VOTE OF ALL MEMBERS MAKE RECOMMENDATIONS TO THE BOARD  
14 OF SUPERVISORS FOR AGGREGATE MINING ZONING DISTRICTS AND ADMINISTRATIVE  
15 REGULATIONS AS PROVIDED IN THIS SECTION. THE BOARD OF SUPERVISORS MAY ADOPT  
16 OR REJECT THE RECOMMENDATIONS BUT MAY NOT MAKE ANY MODIFICATIONS TO THE  
17 RECOMMENDATIONS UNLESS THE MODIFICATION IS APPROVED BY A MAJORITY OF THE  
18 MEMBERS OF THE RECOMMENDATION COMMITTEE.

19 2. SERVE AS A FORUM FOR MEDIATION OF DISPUTES BETWEEN MEMBERS OF THE  
20 PUBLIC AND AGGREGATE MINING OWNERS OR OPERATORS. IF THE COMMITTEE IS UNABLE  
21 TO RESOLVE A DISPUTE, THE COMMITTEE SHALL TRANSMIT THE MATTER TO THE STATE  
22 MINE INSPECTOR, WITH WRITTEN FINDINGS AND RECOMMENDATIONS, FOR FURTHER  
23 ACTION.

24 3. HEAR WRITTEN COMPLAINTS FILED WITH THE STATE MINE INSPECTOR  
25 REGARDING ALLEGED MATERIAL DEVIATIONS FROM APPROVED COMMUNITY NOTICES FOR  
26 AGGREGATE MINING OPERATIONS AND MAKE WRITTEN RECOMMENDATIONS TO THE STATE  
27 MINE INSPECTOR PURSUANT TO SECTION 27-446.

28 F. ANY ADMINISTRATIVE REGULATIONS ADOPTED BY A BOARD OF SUPERVISORS  
29 PURSUANT TO THIS SECTION ARE NOT EFFECTIVE UNTIL THE REGULATIONS ARE APPROVED  
30 BY THE STATE MINE INSPECTOR. THE INSPECTOR MAY DISAPPROVE THE ADMINISTRATIVE  
31 REGULATIONS ADOPTED BY THE BOARD OF SUPERVISORS ONLY IF THEY DUPLICATE,  
32 CONFLICT WITH OR ARE MORE STRINGENT THAN APPLICABLE FEDERAL, STATE OR LOCAL  
33 LAWS, RULES OR REGULATIONS. IF THE INSPECTOR DISAPPROVES THE ADMINISTRATIVE  
34 REGULATIONS, THE INSPECTOR MUST PROVIDE WRITTEN REASONS FOR THE DISAPPROVAL.  
35 THE INSPECTOR SHALL NOT MAKE ANY MODIFICATION TO THE ADMINISTRATIVE  
36 REGULATIONS AS ADOPTED BY THE BOARD OF SUPERVISORS UNLESS THE MODIFICATION IS  
37 APPROVED BY A MAJORITY OF THE MEMBERS OF THE BOARD OF SUPERVISORS.

38 G. A PERSON OR ENTITY IS SUBJECT TO THIS CHAPTER IF THE USE OR  
39 OCCUPATION OF LAND OR IMPROVEMENTS BY THE PERSON OR ENTITY CONSISTS OF OR  
40 INCLUDES CHANGING, REMANUFACTURING OR TREATING HUMAN SEWAGE OR SLUDGE FOR  
41 DISTRIBUTION OR RESALE. THESE ACTIVITIES ARE NOT EXEMPT FROM THIS CHAPTER  
42 UNDER SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.

43 H. A COUNTY SHALL NOT REQUIRE AS A CONDITION FOR A PERMIT OR FOR ANY  
44 APPROVAL, OR OTHERWISE CAUSE, AN OWNER OR POSSESSOR OF PROPERTY TO WAIVE THE  
45 RIGHT TO CONTINUE AN EXISTING NONCONFORMING OUTDOOR ADVERTISING USE OR  
46 STRUCTURE WITHOUT ACQUIRING THE USE OR STRUCTURE BY PURCHASE OR CONDEMNATION  
47 AND PAYING JUST COMPENSATION UNLESS THE COUNTY, AT ITS OPTION, ALLOWS THE USE  
48 OR STRUCTURE TO BE RELOCATED TO A COMPARABLE SITE IN THE COUNTY WITH THE SAME

1 OR A SIMILAR ZONING CLASSIFICATION, OR TO ANOTHER SITE IN THE COUNTY  
2 ACCEPTABLE TO BOTH THE COUNTY AND THE OWNER OF THE USE OR STRUCTURE, AND THE  
3 USE OR STRUCTURE IS RELOCATED TO THE OTHER SITE. THE COUNTY SHALL PAY FOR  
4 RELOCATING THE OUTDOOR ADVERTISING USE OR STRUCTURE INCLUDING THE COST OF  
5 REMOVING AND CONSTRUCTING THE NEW USE OR STRUCTURE THAT IS AT LEAST THE SAME  
6 SIZE AND HEIGHT. THIS SUBSECTION DOES NOT APPLY TO COUNTY REZONING OF  
7 PROPERTY AT THE REQUEST OF THE PROPERTY OWNER TO A MORE INTENSIVE ZONING  
8 DISTRICT.

9 I. FOR THE PURPOSES OF THIS SECTION:

10 1. "AGGREGATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 27-441.

11 2. "AGGREGATE MINING" HAS THE SAME MEANING PRESCRIBED IN SECTION  
12 27-441.

13 3. "AGGREGATE MINING OPERATION" MEANS PROPERTY THAT IS OWNED, OPERATED  
14 OR MANAGED BY THE SAME PERSON FOR AGGREGATE MINING.

15 4. "OPERATORS" MEANS PERSONS WHO ARE ACTIVELY ENGAGED IN AGGREGATE  
16 MINING OPERATIONS WITHIN THE ZONING DISTRICT OR PROPOSED ZONING DISTRICT AND  
17 WHO HAVE GIVEN NOTICE TO THE STATE MINE INSPECTOR PURSUANT TO SECTION 27-303.

18 11-813. Zoning ordinance; adoption; amendments; notice; hearing

19 A. THE COMMISSION SHALL FORMULATE AND DRAFT THE ZONING ORDINANCE.  
20 BEFORE RECOMMENDING THE ZONING ORDINANCE TO THE BOARD OF SUPERVISORS FOR  
21 ADOPTION, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING, AFTER GIVING  
22 AT LEAST FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A  
23 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT.

24 B. AFTER THE COMMISSION RECOMMENDS THE ZONING ORDINANCE, THE ZONING  
25 ORDINANCE SHALL BE SUBMITTED TO THE BOARD OF SUPERVISORS FOR ITS  
26 CONSIDERATION AND OFFICIAL ACTION. AFTER THE BOARD CONSIDERS THE  
27 COMMISSION'S RECOMMENDATION, THE BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING  
28 AT WHICH RESIDENTS OF THE COUNTY SHALL BE HEARD CONCERNING THE ZONING  
29 ORDINANCE. AT LEAST FIFTEEN DAYS NOTICE OF THE HEARING SHALL BE GIVEN BY ONE  
30 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT. THE  
31 BOARD SHALL CONSIDER PROTESTS AND OBJECTIONS TO THE ZONING ORDINANCE AND MAY  
32 CHANGE OR ALTER ANY PORTION OF THE ZONING ORDINANCE.

33 C. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A  
34 ZONING REGULATIONS AMENDMENT SHALL FILE AN APPLICATION FOR THE AMENDMENT.

35 D. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A ZONING REGULATIONS  
36 AMENDMENT AND, AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER,  
37 MAY TRANSMIT THE PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN  
38 THIS CHAPTER FOR ANY OTHER AMENDMENT.

39 E. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE  
40 APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD,  
41 THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST  
42 FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF  
43 GENERAL CIRCULATION IN THE COUNTY SEAT. THE FOLLOWING SPECIFIC NOTICE  
44 PROVISIONS ALSO APPLY:

45 1. IN PROCEEDINGS INVOLVING ONE OR MORE OF THE FOLLOWING PROPOSED  
46 CHANGES OR RELATED SERIES OF CHANGES IN THE STANDARDS GOVERNING LAND USES,  
47 NOTICE SHALL BE PROVIDED IN THE MANNER PRESCRIBED BY PARAGRAPH 2 OF THIS  
48 SUBSECTION:

1 (a) A TEN PER CENT OR MORE INCREASE OR DECREASE IN THE NUMBER OF  
2 SQUARE FEET OR UNITS THAT MAY BE DEVELOPED.

3 (b) A TEN PER CENT OR MORE INCREASE OR REDUCTION IN THE ALLOWABLE  
4 HEIGHT OF BUILDINGS.

5 (c) AN INCREASE OR REDUCTION IN THE ALLOWABLE NUMBER OF STORIES OF  
6 BUILDINGS.

7 (d) A TEN PER CENT OR MORE INCREASE OR DECREASE IN SETBACK OR OPEN  
8 SPACE REQUIREMENTS.

9 (e) AN INCREASE OR REDUCTION IN PERMITTED USES.

10 2. IN PROCEEDINGS GOVERNED BY PARAGRAPH 1 OF THIS SUBSECTION, THE  
11 COUNTY SHALL PROVIDE NOTICE TO REAL PROPERTY OWNERS PURSUANT TO AT LEAST ONE  
12 OF THE FOLLOWING NOTIFICATION PROCEDURES:

13 (a) NOTICE SHALL BE SENT BY FIRST CLASS MAIL TO EACH REAL PROPERTY  
14 OWNER, AS SHOWN ON THE LAST ASSESSMENT, WHOSE REAL PROPERTY IS DIRECTLY  
15 AFFECTED BY THE CHANGES.

16 (b) IF THE COUNTY ISSUES UTILITY BILLS OR OTHER MASS MAILINGS THAT  
17 PERIODICALLY INCLUDE NOTICES OR OTHER INFORMATIONAL OR ADVERTISING MATERIALS,  
18 THE COUNTY SHALL INCLUDE NOTICE OF THE CHANGES WITH THE UTILITY BILLS OR  
19 OTHER MAILINGS.

20 (c) THE COUNTY SHALL PUBLISH THE CHANGES BEFORE THE FIRST HEARING ON  
21 THE CHANGES IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE CHANGES  
22 SHALL BE PUBLISHED IN A DISPLAY ADVERTISEMENT COVERING NOT LESS THAN  
23 ONE-EIGHTH OF A FULL PAGE.

24 3. IF NOTICE IS PROVIDED PURSUANT TO PARAGRAPH 2, SUBDIVISION (b) OR  
25 (c) OF THIS SUBSECTION, THE COUNTY SHALL ALSO SEND NOTICE BY FIRST CLASS MAIL  
26 TO PERSONS WHO REGISTER THEIR NAMES AND ADDRESSES WITH THE COUNTY AS BEING  
27 INTERESTED IN RECEIVING THE NOTICE. THE COUNTY MAY CHARGE A FEE NOT TO  
28 EXCEED FIVE DOLLARS PER YEAR FOR PROVIDING THIS SERVICE AND MAY ADOPT  
29 PROCEDURES TO IMPLEMENT THIS PARAGRAPH.

30 4. NOTWITHSTANDING THE NOTICE REQUIREMENTS PRESCRIBED IN PARAGRAPH 2  
31 OF THIS SUBSECTION, THE FAILURE OF ANY PERSON OR ENTITY TO RECEIVE NOTICE  
32 DOES NOT CONSTITUTE GROUNDS FOR ANY COURT TO INVALIDATE THE ACTIONS OF A  
33 COUNTY FOR WHICH THE NOTICE WAS GIVEN.

34 F. AFTER THE COMMISSION HAS HELD A PUBLIC HEARING, THE BOARD SHALL  
35 HOLD A PUBLIC HEARING ON THE PROPOSED AMENDMENT AT LEAST FIFTEEN DAYS' NOTICE  
36 OF WHICH SHALL BE GIVEN BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL  
37 CIRCULATION IN THE COUNTY SEAT. AFTER HOLDING THE HEARING, THE BOARD MAY  
38 ADOPT THE AMENDMENT.

39 G. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE  
40 GOVERNING BODY THAT CHANGES THE ZONING STANDARDS OF LAND THAT IS NOT OWNED BY  
41 THE COUNTY AS PRESCRIBED IN SUBSECTION E, PARAGRAPH 1 OF THIS SECTION MAY NOT  
42 BE ENACTED AS AN EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE  
43 FOR AT LEAST THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION  
44 BY THE BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF  
45 SUPERVISORS, THE CHANGE MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES  
46 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE  
47 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE  
48 BOARD FOR THOSE COUNTIES WITH FEWER THAN FIVE SUPERVISORS.

11-814. Rezoning; conditional zoning change; notice; hearing;  
citizen review; definition

A. ALL REZONINGS ADOPTED UNDER THIS ARTICLE SHALL BE CONSISTENT WITH AND CONFORM TO THE ADOPTED COMPREHENSIVE PLAN. IN THE CASE OF UNCERTAINTY IN CONSTRUCTING OR APPLYING THE CONFORMITY OF ANY PART OF A PROPOSED REZONING TO THE ADOPTED COMPREHENSIVE PLAN, THE REZONING SHALL BE CONSTRUED IN A MANNER THAT WILL FURTHER THE IMPLEMENTATION OF, AND NOT BE CONTRARY TO, THE GOALS, POLICIES AND APPLICABLE ELEMENTS OF THE COMPREHENSIVE PLAN. A REZONING CONFORMS WITH THE COMPREHENSIVE PLAN IF IT PROPOSES LAND USES, DENSITIES OR INTENSITIES WITHIN THE RANGE OF IDENTIFIED USES, DENSITIES AND INTENSITIES OF THE COMPREHENSIVE PLAN.

B. A PROPERTY OWNER OR AUTHORIZED AGENT OF A PROPERTY OWNER DESIRING A REZONING SHALL FILE AN APPLICATION FOR THE REZONING.

C. THE COMMISSION, ON ITS OWN MOTION, MAY PROPOSE A REZONING AND, AFTER HOLDING A PUBLIC HEARING AS REQUIRED BY THIS CHAPTER, MAY TRANSMIT THE PROPOSAL TO THE BOARD, WHICH SHALL PROCEED AS PRESCRIBED IN THIS CHAPTER FOR ANY OTHER REZONING.

D. ON RECEIPT OF THE APPLICATION THE BOARD SHALL SUBMIT THE APPLICATION TO THE COMMISSION FOR A REPORT. BEFORE REPORTING TO THE BOARD, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING AFTER GIVING AT LEAST FIFTEEN DAYS' NOTICE OF THE HEARING BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT AND BY POSTING OF THE AREA INCLUDED IN THE PROPOSED REZONING. IF THE MATTER TO BE CONSIDERED APPLIES TO TERRITORY IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, THE NOTICE SHALL INCLUDE A GENERAL STATEMENT THAT THE MATTER APPLIES TO PROPERTY LOCATED IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE. THE POSTING SHALL BE IN NO LESS THAN TWO PLACES WITH AT LEAST ONE NOTICE FOR EACH QUARTER MILE OF FRONTAGE ALONG PERIMETER PUBLIC RIGHTS-OF-WAY SO THAT THE NOTICES ARE VISIBLE FROM THE NEAREST PUBLIC RIGHT-OF-WAY. THE COMMISSION SHALL ALSO SEND NOTICE BY FIRST CLASS MAIL TO EACH REAL PROPERTY OWNER AS SHOWN ON THE LAST ASSESSMENT OF THE PROPERTY WITHIN THREE HUNDRED FEET OF THE PROPOSED REZONING AND EACH COUNTY AND MUNICIPALITY THAT IS CONTIGUOUS TO THE AREA OF THE PROPOSED REZONING. IN PROCEEDINGS INVOLVING REZONING OF LAND THAT IS LOCATED WITHIN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE COMMISSION SHALL SEND COPIES OF THE NOTICE OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE MILITARY AIRPORT. THE NOTICE SENT BY MAIL SHALL INCLUDE, AT A MINIMUM, THE DATE, TIME AND PLACE OF THE HEARING ON THE PROPOSED REZONING INCLUDING A GENERAL EXPLANATION OF THE MATTER TO BE CONSIDERED, A GENERAL DESCRIPTION OF THE AREA OF THE PROPOSED REZONING, HOW THE REAL PROPERTY OWNERS WITHIN THE ZONING AREA MAY FILE APPROVALS OR PROTESTS OF THE PROPOSED REZONING, AND NOTIFICATION THAT IF TWENTY PER CENT OF THE PROPERTY OWNERS BY AREA AND NUMBER WITHIN THE ZONING AREA FILE PROTESTS, AN AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL MEMBERS OF THE BOARD WILL BE REQUIRED TO APPROVE THE REZONING. IN PROCEEDINGS THAT ARE INITIATED BY THE COMMISSION INVOLVING REZONING, NOTICE BY FIRST CLASS MAIL SHALL BE SENT TO EACH REAL PROPERTY OWNER, AS SHOWN ON THE LAST ASSESSMENT OF THE PROPERTY, OF THE AREA TO BE REZONED AND ALL PROPERTY OWNERS, AS SHOWN ON



1 THE LAST ASSESSMENT OF THE PROPERTY, WITHIN THREE HUNDRED FEET OF THE  
2 PROPERTY TO BE REZONED.

3 E. IF THE COMMISSION OR HEARING OFFICER HAS HELD A PUBLIC HEARING, THE  
4 BOARD MAY ADOPT THE RECOMMENDATIONS OF THE COMMISSION OR HEARING OFFICER  
5 THROUGH USE OF A CONSENT CALENDAR WITHOUT HOLDING A SECOND PUBLIC HEARING IF  
6 THERE IS NO OBJECTION, REQUEST FOR PUBLIC HEARING OR OTHER PROTEST. IF THERE  
7 IS AN OBJECTION, A REQUEST FOR PUBLIC HEARING OR A PROTEST, THE BOARD SHALL  
8 HOLD A PUBLIC HEARING AT LEAST FIFTEEN DAYS' NOTICE OF WHICH SHALL BE GIVEN  
9 BY ONE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY SEAT  
10 AND BY POSTING THE AREA INCLUDED IN THE PROPOSED REZONING. IN COUNTIES WITH  
11 TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR ANCILLARY MILITARY  
12 FACILITY AS DEFINED IN SECTION 28-8461, THE BOARD SHALL HOLD A PUBLIC HEARING  
13 IF, AFTER NOTICE IS MAILED TO THE MILITARY AIRPORT PURSUANT TO SUBSECTION D  
14 OF THIS SECTION AND BEFORE THE PUBLIC HEARING, THE MILITARY AIRPORT PROVIDES  
15 COMMENTS OR ANALYSIS CONCERNING THE COMPATIBILITY OF THE PROPOSED REZONING  
16 WITH THE HIGH NOISE OR ACCIDENT POTENTIAL GENERATED BY MILITARY AIRPORT OR  
17 ANCILLARY MILITARY FACILITY OPERATIONS THAT MAY HAVE AN ADVERSE IMPACT ON  
18 PUBLIC HEALTH AND SAFETY, AND THE BOARD SHALL CONSIDER AND ANALYZE THE  
19 COMMENTS OR ANALYSIS BEFORE MAKING A FINAL DETERMINATION. AFTER HOLDING THE  
20 HEARING THE BOARD MAY ADOPT THE REZONING, BUT IF TWENTY PER CENT OF THE  
21 OWNERS OF PROPERTY BY AREA AND NUMBER WITHIN THE ZONING AREA FILE A PROTEST  
22 TO THE PROPOSED REZONING, THE CHANGE SHALL NOT BE MADE EXCEPT BY A  
23 THREE-FOURTHS VOTE OF ALL MEMBERS OF THE BOARD. IF ANY MEMBERS OF THE BOARD  
24 ARE UNABLE TO VOTE ON THE QUESTION BECAUSE OF A CONFLICT OF INTEREST, THE  
25 REQUIRED NUMBER OF VOTES FOR THE PASSAGE OF THE QUESTION IS THREE-FOURTHS OF  
26 THE REMAINING MEMBERSHIP OF THE BOARD, EXCEPT THAT THE REQUIRED NUMBER OF  
27 VOTES IN NO EVENT SHALL BE LESS THAN A MAJORITY OF THE FULL MEMBERSHIP OF THE  
28 BOARD. IN CALCULATING THE OWNERS BY AREA, ONLY THAT PORTION OF A LOT OR  
29 PARCEL OF RECORD SITUATED WITHIN THREE HUNDRED FEET OF THE PROPERTY TO BE  
30 REZONED SHALL BE INCLUDED. IN CALCULATING THE OWNERS BY NUMBER OR AREA,  
31 COUNTY PROPERTY AND PUBLIC RIGHTS-OF-WAY SHALL NOT BE INCLUDED.

32 F. THE BOARD OF SUPERVISORS SHALL ADOPT BY ORDINANCE A CITIZEN REVIEW  
33 PROCESS THAT APPLIES TO ALL REZONING AND SPECIFIC ZONING PLAN APPLICATIONS  
34 THAT REQUIRE A PUBLIC HEARING. THE CITIZEN REVIEW PROCESS SHALL INCLUDE AT  
35 LEAST THE FOLLOWING REQUIREMENTS:

36 1. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE  
37 NOTIFIED OF THE APPLICATION.

38 2. THE COUNTY WILL INFORM ADJACENT LANDOWNERS AND OTHER POTENTIALLY  
39 AFFECTED CITIZENS OF THE SUBSTANCE OF THE PROPOSED REZONING.

40 3. ADJACENT LANDOWNERS AND OTHER POTENTIALLY AFFECTED CITIZENS WILL BE  
41 PROVIDED AN OPPORTUNITY TO EXPRESS ANY ISSUES OR CONCERNS THAT THEY MAY HAVE  
42 WITH THE PROPOSED REZONING BEFORE THE PUBLIC HEARING.

43 G. THE REZONING OR SUBDIVISION PLAT OF ANY UNINCORPORATED AREA  
44 COMPLETELY SURROUNDED BY A CITY OR TOWN SHALL USE AS A GUIDELINE THE ADOPTED  
45 GENERAL PLAN AND STANDARDS AS PRESCRIBED IN THE SUBDIVISION AND ZONING  
46 ORDINANCES OF THE CITY OR TOWN AFTER APRIL 10, 1986.

47 H. THE BOARD OR COMMISSION, BEFORE TAKING ANY ACTION ON A REZONING OR  
48 SUBDIVISION PLAT IN AN AREA AS PRESCRIBED IN SUBSECTION G OF THIS SECTION,

1 MAY REQUIRE THE AFFECTED CITY OR TOWN TO SUPPLY INFORMATION TO ALLOW THE  
2 COUNTY TO MEET THE GUIDELINE. IF AN AFFECTED CITY OR TOWN OBJECTS TO ANY  
3 SUCH PROPOSED ACTION THE BOARD OR COMMISSION SHALL PRESCRIBE IN THE MINUTES  
4 OF THE MEETING SPECIFIC REASONS WHY IN ITS OPINION THE GUIDELINE IS ACTUALLY  
5 BEING FOLLOWED OR WHY IT IS NOT PRACTICABLE TO FOLLOW THE GUIDELINE OF THE  
6 GENERAL PLAN.

7 I. THE BOARD MAY APPROVE A CHANGE OF ZONE CONDITIONED ON A SCHEDULE  
8 FOR DEVELOPMENT OF THE SPECIFIC USE OR USES FOR WHICH REZONING IS REQUESTED.  
9 IF AT THE EXPIRATION OF THIS PERIOD THE PROPERTY HAS NOT BEEN IMPROVED FOR  
10 THE USE FOR WHICH IT WAS CONDITIONALLY APPROVED, THE BOARD AFTER NOTIFICATION  
11 BY CERTIFIED MAIL TO THE OWNER AND APPLICANT WHO REQUESTED THE REZONING SHALL  
12 SCHEDULE A PUBLIC HEARING TO GRANT AN EXTENSION, DETERMINE COMPLIANCE WITH  
13 THE SCHEDULE FOR DEVELOPMENT OR CAUSE THE PROPERTY TO REVERT TO ITS FORMER  
14 ZONING CLASSIFICATION.

15 J. THE LEGISLATURE FINDS THAT A REZONING OF LAND THAT CHANGES THE  
16 ZONING CLASSIFICATION OF THE LAND OR THAT RESTRICTS THE USE OR REDUCES THE  
17 VALUE OF THE LAND IS A MATTER OF STATEWIDE CONCERN. SUCH A CHANGE IN ZONING  
18 THAT IS INITIATED BY THE GOVERNING BODY OR ZONING BODY SHALL NOT BE MADE  
19 WITHOUT THE EXPRESS WRITTEN CONSENT OF THE PROPERTY OWNER. IN APPLYING AN  
20 OPEN SPACE ELEMENT OR A GROWTH ELEMENT OF A COMPREHENSIVE PLAN, A PARCEL OF  
21 LAND SHALL NOT BE REZONED FOR OPEN SPACE, RECREATION, CONSERVATION OR  
22 AGRICULTURE UNLESS THE OWNER OF THE LAND CONSENTS TO THE REZONING IN WRITING.  
23 FOR THE PURPOSES OF THIS SUBSECTION, REZONING DOES NOT INCLUDE THE CREATION  
24 OR EXPANSION OF OVERLAY ZONES SOLELY FOR THE PURPOSE OF IMPLEMENTING AIRPORT  
25 SAFETY AND PROTECTION. REZONING ALSO DOES NOT INCLUDE THE REDESIGNATION OF  
26 AREAS OF THE COUNTY TO WHICH THE RESIDENTIAL PROVISIONS OF THE COUNTY  
27 BUILDING CODES APPLY OR DO NOT APPLY. THE COUNTY SHALL NOT ADOPT ANY CHANGE  
28 IN A ZONING CLASSIFICATION TO CIRCUMVENT THE PURPOSE OF THIS SUBSECTION.

29 K. NOTWITHSTANDING TITLE 19, CHAPTER 1, ARTICLE 4, A DECISION BY THE  
30 GOVERNING BODY INVOLVING REZONING OF LAND THAT IS NOT OWNED BY THE COUNTY AND  
31 THAT CHANGES THE ZONING CLASSIFICATION OF THE LAND MAY NOT BE ENACTED AS AN  
32 EMERGENCY MEASURE AND SUCH A CHANGE SHALL NOT BE EFFECTIVE FOR AT LEAST  
33 THIRTY DAYS AFTER FINAL APPROVAL OF THE CHANGE IN CLASSIFICATION BY THE  
34 BOARD. UNLESS A RESIDENT FILES A WRITTEN OBJECTION WITH THE BOARD OF  
35 SUPERVISORS, THE REZONING MAY BE ENACTED AS AN EMERGENCY MEASURE THAT BECOMES  
36 EFFECTIVE IMMEDIATELY BY A FOUR-FIFTHS MAJORITY VOTE OF THE BOARD FOR THOSE  
37 COUNTIES WITH FIVE OR MORE SUPERVISORS OR A TWO-THIRDS MAJORITY VOTE OF THE  
38 BOARD FOR THOSE COUNTIES WITH LESS THAN FIVE SUPERVISORS.

39 L. FOR THE PURPOSES OF THIS SECTION, "ZONING AREA" MEANS THE AREA  
40 WITHIN THREE HUNDRED FEET OF THE PROPOSED AMENDMENT OR CHANGE.

41 11-815. Enforcement; county zoning inspector; deputies;  
42 building permits; violations; classification; civil  
43 penalties; hearing officers and procedures

44 A. THE COUNTY ZONING ORDINANCE SHALL PROVIDE FOR ITS ENFORCEMENT  
45 WITHIN A ZONED TERRITORY BY MEANS OF WITHHOLDING BUILDING PERMITS, AND FOR  
46 SUCH PURPOSES MAY ESTABLISH THE POSITION OF COUNTY ZONING INSPECTOR, AND SUCH  
47 DEPUTY INSPECTORS AS MAY BE REQUIRED, WHO SHALL BE APPOINTED BY THE BOARD.

1           B. AFTER THE ESTABLISHMENT AND FILLING OF THE POSITION, IT IS UNLAWFUL  
2 TO ERECT, CONSTRUCT, RECONSTRUCT, ALTER OR USE ANY BUILDING OR OTHER  
3 STRUCTURE WITHIN A ZONING DISTRICT COVERED BY THE ORDINANCE WITHOUT FIRST  
4 OBTAINING A BUILDING PERMIT FROM THE INSPECTOR AND FOR THAT PURPOSE THE  
5 APPLICANT SHALL PROVIDE THE ZONING INSPECTOR WITH A SKETCH OF THE PROPOSED  
6 CONSTRUCTION CONTAINING SUFFICIENT INFORMATION FOR THE ENFORCEMENT OF THE  
7 ZONING ORDINANCE. A PERMIT IS NOT REQUIRED FOR REPAIRS OR IMPROVEMENTS OF A  
8 VALUE NOT EXCEEDING FIVE HUNDRED DOLLARS. REASONABLE FEES MAY BE CHARGED FOR  
9 THE ISSUANCE OF A PERMIT. THE INSPECTOR SHALL RECOGNIZE THE LIMITATIONS  
10 PLACED ON THE INSPECTOR'S AUTHORITY BY SECTIONS 11-804 AND 11-811, AND SHALL  
11 ISSUE THE PERMIT WHEN IT APPEARS THAT THE PROPOSED ERECTION, CONSTRUCTION,  
12 RECONSTRUCTION, ALTERATION OR USE FULLY CONFORMS TO THE ZONING ORDINANCE. IN  
13 ANY OTHER CASE THE INSPECTOR SHALL WITHHOLD THE PERMIT.

14           C. IT IS UNLAWFUL TO ERECT, CONSTRUCT, RECONSTRUCT, MAINTAIN OR USE  
15 ANY LAND IN ANY ZONING DISTRICT IN VIOLATION OF ANY REGULATION OR ANY  
16 PROVISION OF ANY ORDINANCE PERTAINING THERETO AND ANY VIOLATION CONSTITUTES A  
17 PUBLIC NUISANCE. ANY PERSON, FIRM OR CORPORATION VIOLATING AN ORDINANCE, OR  
18 ANY PART OF THE ORDINANCE, IS GUILTY OF A CLASS 2 MISDEMEANOR. EACH DAY  
19 DURING WHICH THE ILLEGAL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION,  
20 MAINTENANCE OR USE CONTINUES IS A SEPARATE OFFENSE.

21           D. A COUNTY MAY ESTABLISH CIVIL PENALTIES FOR A VIOLATION OF ANY  
22 ZONING REGULATION OR ORDINANCE. CIVIL PENALTIES SHALL NOT EXCEED THE AMOUNT  
23 OF THE MAXIMUM FINE FOR A CLASS 2 MISDEMEANOR. EACH DAY OF CONTINUANCE OF  
24 THE VIOLATION CONSTITUTES A SEPARATE VIOLATION. IF AN ALLEGED VIOLATOR IS  
25 SERVED WITH A NOTICE OF VIOLATION PURSUANT TO SUBSECTION E OF THIS SECTION,  
26 THE ALLEGED VIOLATOR IS NOT SUBJECT TO A CRIMINAL CHARGE ARISING OUT OF THE  
27 SAME FACTS.

28           E. A COUNTY THAT ESTABLISHES A CIVIL PENALTY FOR VIOLATION OF A ZONING  
29 REGULATION OR ORDINANCE MAY APPOINT HEARING OFFICERS TO HEAR AND DETERMINE  
30 ZONING VIOLATIONS. IF THE ZONING INSPECTOR REPORTS A ZONING VIOLATION TO THE  
31 HEARING OFFICER, THE HEARING OFFICER SHALL HOLD A HEARING AFTER SERVING  
32 NOTICE OF THE HEARING ON THE ALLEGED VIOLATOR. THE NOTICE SHALL BE  
33 PERSONALLY SERVED ON THE ALLEGED VIOLATOR BY THE ZONING INSPECTOR AT LEAST  
34 FIVE DAYS BEFORE THE HEARING. IF THE ZONING INSPECTOR IS UNABLE TO  
35 PERSONALLY SERVE THE NOTICE, THE NOTICE MAY BE SERVED IN THE SAME MANNER  
36 PRESCRIBED FOR ALTERNATIVE METHODS OF SERVICE BY THE ARIZONA RULES OF CIVIL  
37 PROCEDURE. A NOTICE SERVED ON THE ALLEGED VIOLATOR OTHER THAN BY PERSONAL  
38 SERVICE SHALL BE SERVED AT LEAST THIRTY DAYS BEFORE THE HEARING.

39           F. AT THE HEARING, THE ZONING INSPECTOR SHALL PRESENT EVIDENCE SHOWING  
40 THE EXISTENCE OF A ZONING VIOLATION AND THE ALLEGED VIOLATOR OR THE ALLEGED  
41 VIOLATOR'S ATTORNEY OR OTHER DESIGNATED REPRESENTATIVE SHALL BE GIVEN A  
42 REASONABLE OPPORTUNITY TO PRESENT EVIDENCE. THE COUNTY ATTORNEY MAY PRESENT  
43 EVIDENCE ON BEHALF OF THE ZONING INSPECTOR. AT THE CONCLUSION OF THE  
44 HEARING, THE HEARING OFFICER SHALL DETERMINE WHETHER A ZONING VIOLATION  
45 EXISTS AND, IF A VIOLATION IS FOUND TO EXIST, MAY IMPOSE CIVIL PENALTIES  
46 PURSUANT TO SUBSECTION D OF THIS SECTION.

47           G. A HEARING OFFICER MAY BE AN EMPLOYEE OF THE COUNTY AND SHALL BE  
48 APPOINTED BY THE BOARD OF SUPERVISORS. A REVIEW OF DECISIONS OF THE HEARING

1 OFFICER BY THE BOARD OF SUPERVISORS SHALL BE AVAILABLE TO ANY PARTY TO THE  
2 HEARING. THE BOARD OF SUPERVISORS SHALL ADOPT WRITTEN RULES OF PROCEDURE FOR  
3 THE HEARING AND REVIEW OF HEARINGS, WHICH SHALL BE ADOPTED IN THE SAME MANNER  
4 AS ZONING ORDINANCES. JUDICIAL REVIEW OF THE FINAL DECISIONS OF THE BOARD OF  
5 SUPERVISORS SHALL BE PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. A COUNTY  
6 THAT ESTABLISHES CIVIL PENALTIES FOR A VIOLATION OF A ZONING REGULATION OR  
7 ORDINANCE IS NOT PRECLUDED FROM PURSUING THE REMEDIES AS PROVIDED FOR IN  
8 SUBSECTION H OF THIS SECTION.

9 H. IF ANY BUILDING OR STRUCTURE IS OR IS PROPOSED TO BE ERECTED,  
10 CONSTRUCTED, RECONSTRUCTED, ALTERED, MAINTAINED OR USED OR ANY LAND IS OR IS  
11 PROPOSED TO BE USED IN VIOLATION OF THIS CHAPTER OR ANY ORDINANCE, REGULATION  
12 OR PROVISION ENACTED OR ADOPTED BY THE BOARD UNDER THE AUTHORITY GRANTED BY  
13 THIS CHAPTER, THE BOARD, THE COUNTY ATTORNEY, THE INSPECTOR OR ANY ADJACENT  
14 OR NEIGHBORING PROPERTY OWNER WHO IS SPECIALLY DAMAGED BY THE VIOLATION, IN  
15 ADDITION TO THE OTHER REMEDIES PROVIDED BY LAW, MAY INSTITUTE INJUNCTION,  
16 MANDAMUS, ABATEMENT OR ANY OTHER APPROPRIATE ACTION OR PROCEEDINGS TO PREVENT  
17 OR ABATE OR REMOVE THE UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION,  
18 ALTERATION, MAINTENANCE OR USE.

19 11-816. Boards of adjustment; powers; appeals

20 A. THERE SHALL BE ONE OR MORE BOARDS OF ADJUSTMENT COMPOSED OF NOT  
21 LESS THAN THREE NOR MORE THAN FIVE MEMBERS EACH, ONE OF WHICH SHALL BE  
22 APPOINTED IN AND SHALL HAVE JURISDICTION IN EACH SUPERVISORIAL DISTRICT IN  
23 WHICH THE ZONING ORDINANCE HAS BEEN APPLIED. THE MEMBERS OF EACH BOARD SHALL  
24 BE APPOINTED FOR STAGGERED TERMS OF FOUR YEARS EACH. THEY SHALL BE RESIDENTS  
25 AND TAXPAYERS OF THE DISTRICT FROM WHICH THEY ARE APPOINTED.

26 B. THE BOARD OF ADJUSTMENT MAY:

27 1. INTERPRET THE ZONING ORDINANCE IF THE MEANING OF ANY WORD, PHRASE  
28 OR SECTION IS IN DOUBT, IF THERE IS DISPUTE BETWEEN THE APPELLANT AND  
29 ENFORCING OFFICER OR IF THE LOCATION OF A DISTRICT BOUNDARY IS IN DOUBT.

30 2. ALLOW A VARIANCE FROM THE TERMS OF THE ORDINANCE IF, OWING TO  
31 PECULIAR CONDITIONS, A STRICT INTERPRETATION WOULD WORK AN UNNECESSARY  
32 HARDSHIP AND IF IN GRANTING THE VARIANCE THE GENERAL INTENT AND PURPOSES OF  
33 THE ZONING ORDINANCE WILL BE PRESERVED.

34 C. APPEALS TO A BOARD OF ADJUSTMENT MAY BE TAKEN BY ANY PERSON WHO  
35 FEELS THAT THERE IS ERROR OR DOUBT IN THE INTERPRETATION OF THE ORDINANCE OR  
36 THAT DUE TO UNUSUAL CIRCUMSTANCES ATTACHING TO THE PERSON'S PROPERTY AN  
37 UNNECESSARY HARDSHIP IS BEING INFLICTED ON THE PERSON. THE APPEAL SHALL  
38 STATE WHETHER IT IS A PLEA FOR AN INTERPRETATION OR A VARIANCE AND THE  
39 GROUNDS FOR THE APPEAL.

40 D. ANY PERSON AGGRIEVED IN ANY MANNER BY AN ACTION OF A BOARD OF  
41 ADJUSTMENT MAY APPEAL WITHIN THIRTY DAYS TO THE SUPERIOR COURT, AND THE  
42 MATTER SHALL BE HEARD DE NOVO.

43 11-817. Transfer of development rights; definitions

44 A. THE BOARD OF SUPERVISORS MAY ESTABLISH PROCEDURES, METHODS AND  
45 STANDARDS FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN ITS JURISDICTION.  
46 ANY PROPOSED TRANSFER OF ALL OR ANY PORTION OF THE DEVELOPMENT RIGHTS OF A  
47 SENDING PROPERTY TO A RECEIVING PROPERTY IS SUBJECT TO THE WRITTEN APPROVAL  
48 AND CONSENT OF THE PROPERTY OWNERS OF BOTH THE SENDING PROPERTY AND THE

1 RECEIVING PROPERTY. A COUNTY MAY NOT CONDITION A CHANGE OF ZONE ON A  
2 PROPERTY OWNER'S CONSENT TO OR OTHER PARTICIPATION IN A PROPOSED TRANSFER OF  
3 DEVELOPMENT RIGHTS, EXCEPT THAT A CHANGE OF ZONE MAY BE REQUIRED TO IMPLEMENT  
4 A DEVELOPMENT AGREEMENT IF IT IS VOLUNTARILY ENTERED INTO BY A PROPERTY OWNER  
5 OR OWNERS WITH A COUNTY FOR THE TRANSFER OF DEVELOPMENT RIGHTS CONCURRENTLY  
6 WITH THE COUNTY'S APPROVAL OF THE CHANGE OF ZONE. BEFORE ANY TRANSFER OF  
7 DEVELOPMENT RIGHTS, A COUNTY SHALL ADOPT AN ORDINANCE PROVIDING FOR:

8 1. THE ESTABLISHMENT, EXECUTION AND RECORDATION OF INSTRUMENTS TO  
9 SEVER DEVELOPMENT RIGHTS TRANSFERRED FROM THE SENDING PROPERTY AND TO AFFIX  
10 THE DEVELOPMENT RIGHTS TO THE RECEIVING PROPERTY. THE INSTRUMENTS SHALL BE  
11 EXECUTED BY THE PROPERTY OWNERS OF THE SENDING AND RECEIVING PROPERTY AND ANY  
12 LIENHOLDERS.

13 2. THE PRESERVATION OF THE CHARACTERISTICS OF THE SENDING PROPERTY  
14 LENDING TO THE TRANSFER OF DEVELOPMENT RIGHTS AND ASSURANCE THAT ANY OF THE  
15 PROHIBITIONS AGAINST PARTICULAR USES OR DEVELOPMENT OF THE SENDING PROPERTY  
16 DETERMINED TO BE NECESSARY TO PRESERVE THE CHARACTERISTICS SHALL BIND THE  
17 PROPERTY OWNER AND EVERY SUCCESSOR IN INTEREST TO THE PROPERTY.

18 3. A DELAY BEFORE TRANSFER OF DEVELOPMENT RIGHTS TO A RECEIVING  
19 PROPERTY AFTER THE SEVERANCE OF TRANSFERABLE DEVELOPMENT RIGHTS FROM A  
20 SENDING PROPERTY.

21 4. THE PURCHASE, SALE, EXCHANGE OR OTHER CONVEYANCE OF TRANSFERABLE  
22 DEVELOPMENT RIGHTS BEFORE THE RIGHTS ARE AFFIXED TO A RECEIVING PROPERTY.

23 5. PROCEDURES FOR MONITORING THE SEVERANCE, OWNERSHIP AND TRANSFER OF  
24 TRANSFERABLE DEVELOPMENT RIGHTS.

25 6. APPROPRIATE PUBLIC PARTICIPATION PROCEDURES FOR EACH TYPE OF  
26 TRANSACTION.

27 7. USE OF DEVELOPMENT AGREEMENTS AS AN OPTION FOR IMPLEMENTATION.

28 B. THE RESULTING DENSITY OR INTENSITY OF LAND USE OF THE RECEIVING  
29 PROPERTY SHALL CONFORM TO THE ADOPTED COMPREHENSIVE PLAN, AS AMENDED, IF  
30 APPLICABLE. IF A PLAN AMENDMENT IS REQUIRED BEFORE THE TRANSFER, THE PLAN  
31 AMENDMENT SHALL NOT BE CONSIDERED A MAJOR PLAN AMENDMENT.

32 C. A COUNTY'S AREA OF JURISDICTION INCLUDES LAND IN A HIGH NOISE OR  
33 ACCIDENT POTENTIAL ZONE, IN ORDER TO FACILITATE DEVELOPMENT IN THE HIGH NOISE  
34 OR ACCIDENT POTENTIAL ZONE THAT CONFORMS TO THE COMPATIBLE USES PRESCRIBED IN  
35 SECTION 28-8481, SUBSECTION J, THE COUNTY MAY APPROVE THE TRANSFER OF  
36 DEVELOPMENT RIGHTS AND ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH ANY CITY  
37 OR TOWN OR OTHER COUNTY.

38 D. THE BOARD OF SUPERVISORS MAY AUTHORIZE THE TRANSFER OF DEVELOPMENT  
39 RIGHTS FROM UNINCORPORATED AREAS OF A COUNTY TO A MUNICIPALITY PURSUANT TO AN  
40 INTERGOVERNMENTAL AGREEMENT.

41 E. FOR THE PURPOSES OF THIS SECTION:

42 1. "ANCILLARY MILITARY FACILITY" HAS THE SAME MEANING PRESCRIBED IN  
43 SECTION 28-8461.

44 2. "DEVELOPMENT RIGHTS" MEANS THE MAXIMUM DEVELOPMENT THAT WOULD BE  
45 ALLOWED ON THE SENDING PROPERTY UNDER THE ADOPTED COMPREHENSIVE PLAN, THE  
46 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER  
47 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT ON THE DATE  
48 THE COUNTY ADOPTS AN ORDINANCE PURSUANT TO SUBSECTION A OF THIS SECTION,

1 RESPECTING THE PERMISSIBLE USE, AREA, BULK OR HEIGHT OF IMPROVEMENTS MADE TO  
2 ONE OR MORE LOTS OR PARCELS. DEVELOPMENT RIGHTS MAY BE CALCULATED AND  
3 ALLOCATED PURSUANT TO FACTORS INCLUDING DWELLING UNITS, AREA, FLOOR AREA,  
4 FLOOR AREA RATIO, HEIGHT LIMITATIONS, TRAFFIC GENERATION OR ANY OTHER  
5 CRITERIA THAT WILL QUANTIFY A VALUE FOR THE DEVELOPMENT RIGHTS IN A MANNER  
6 THAT WILL CARRY OUT THE OBJECTIVES OF THIS SECTION.

7 3. "HIGH NOISE OR ACCIDENT POTENTIAL ZONE" HAS THE SAME MEANING  
8 PRESCRIBED IN SECTION 28-8461.

9 4. "MILITARY AIRPORT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
10 28-8461.

11 5. "RECEIVING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS WITHIN WHICH  
12 DEVELOPMENT RIGHTS ARE INCREASED UNDER THE ADOPTED COMPREHENSIVE PLAN, THE  
13 SPECIFIC PLAN, IF ANY, OR THE ZONING ORDINANCE, WHICHEVER PROVIDES GREATER  
14 DENSITY OR INTENSITY OF USE OR, IF APPLICABLE, BOTH, IN EFFECT BEFORE A  
15 TRANSFER OF DEVELOPMENT RIGHTS AND AN AMENDMENT TO THE ADOPTED COMPREHENSIVE  
16 PLAN, SPECIFIC PLAN OR ZONING ORDINANCE, OR A REZONE OF THE PROPERTY,  
17 WHICHEVER IS REQUIRED TO IMPLEMENT THE INCREASE IN DEVELOPMENT RIGHTS. THE  
18 RECEIVING PROPERTY SHALL BE SUITABLE FOR DEVELOPMENT THAT INCLUDES THE  
19 TRANSFERRED DEVELOPMENT RIGHTS CONSISTENT WITH THE ADOPTED COMPREHENSIVE  
20 PLAN, AS AMENDED, IF APPLICABLE. RECEIVING PROPERTY DOES NOT INCLUDE LOTS OR  
21 PARCELS THAT ARE PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH  
22 NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY  
23 MILITARY FACILITY.

24 6. "SENDING PROPERTY" MEANS ONE OR MORE LOTS OR PARCELS THAT ARE  
25 PARTIALLY OR WHOLLY LOCATED WITHIN, OR THAT INCLUDE, A HIGH NOISE OR ACCIDENT  
26 POTENTIAL ZONE OF A MILITARY AIRPORT OR AN ANCILLARY MILITARY FACILITY, A  
27 FLOODPLAIN, NATURAL HABITAT, GEOLOGIC FEATURES, RECREATION AREA OR PARKLAND,  
28 OR LAND THAT HAS UNIQUE AESTHETIC, ARCHITECTURAL OR HISTORIC VALUE, THAT A  
29 COUNTY DETERMINES IS APPROPRIATE AND NECESSARY TO RESTRICT AGAINST PARTICULAR  
30 USES OR FUTURE DEVELOPMENT THAT WOULD IMPAIR OR PRECLUDE PRESERVATION OF THE  
31 CHARACTERISTIC OR CHARACTERISTICS OF THE PROPERTY OR TO PROTECT THE PUBLIC  
32 BECAUSE OF HEALTH OR SAFETY CONCERNS.

33 7. "TRANSFER OF DEVELOPMENT RIGHTS" MEANS THE PROCESS BY WHICH  
34 DEVELOPMENT RIGHTS FROM ONE OR MORE SENDING PROPERTIES ARE AFFIXED TO ONE OR  
35 MORE RECEIVING PROPERTIES.

36 11-818. Disclosure of filings: military electronics range:  
37 definition

38 A. A COUNTY THAT CONTAINS ANY PORTION OF A MILITARY ELECTRONICS RANGE  
39 AS DELINEATED IN THE MILITARY ELECTRONICS RANGE MAP PREPARED BY THE STATE  
40 LAND DEPARTMENT PURSUANT TO SECTION 37-102 SHALL NOTIFY THE OFFICE OF THE  
41 INSTALLATION COMMANDER WHEN AN APPLICATION IS DEEMED COMPLETE BY THE COUNTY  
42 TO DO ANY OF THE FOLLOWING WITHIN ANY PORTION OF THE MILITARY ELECTRONICS  
43 RANGE:

44 1. REZONE THE PROPERTY.

45 2. ISSUE A BUILDING OR OTHER DEVELOPMENT PERMIT, INCLUDING AN  
46 APPLICATION FOR CONSTRUCTION OR INSTALLATION OF A PUBLICLY OR PRIVATELY  
47 OPERATED UTILITY, FOR THE PROPERTY.

1           3. SUBDIVIDE THE PROPERTY OR OTHERWISE DIVIDE THE PROPERTY, INCLUDING  
2 ANY LAND DIVISION INTO FIVE OR FEWER LOTS, WHETHER FOR RESIDENTIAL,  
3 INDUSTRIAL, COMMERCIAL OR ANY OTHER USE.

4           B. IF THE PROPOSED LAND USE CHANGE DESCRIBED IN SUBSECTION A OF THIS  
5 SECTION DOES NOT REQUIRE A PUBLIC HEARING, THIS SUBSECTION SHALL NOT BE  
6 CONSTRUED TO ALLOW OR REQUIRE A PUBLIC HEARING BY THE COUNTY ON WRITTEN  
7 COMMENTS BY THE INSTALLATION. IF THE INSTALLATION CHOOSES TO MAKE OFFICIAL  
8 COMMENTS ON THE PROPOSED LAND USE CHANGE, THOSE COMMENTS SHALL BE MADE IN  
9 WRITING AND RECEIVED BY THE COUNTY SEVEN DAYS BEFORE THE FIRST PUBLIC HEARING  
10 ON THE PROPOSED LAND USE CHANGE. IF THE INSTALLATION CHOOSES NOT TO SUBMIT  
11 OFFICIAL COMMENTS, AND IF THERE IS A HEARING, THE COUNTY SHALL NOTE AT THE  
12 PUBLIC HEARING ON THE PROPOSED LAND USE CHANGE THAT THE INSTALLATION HAS NOT  
13 INDICATED AN OBJECTION TO THE PROPOSED LAND USE CHANGE.

14           C. THE COUNTY SHALL PROVIDE NOTICE TO THE OFFICE OF THE INSTALLATION  
15 COMMANDER PURSUANT TO THIS SECTION BY PROVIDING A COPY OF THE APPLICATION AND  
16 THE RELEVANT DOCUMENTATION THAT IS NECESSARY TO ADEQUATELY DESCRIBE THE  
17 PROPOSED LAND USE CHANGE AS IT RELATES TO THE MILITARY OPERATIONS AT THE  
18 INSTALLATION. THIS DOCUMENTATION SHALL INCLUDE A BASIC OUTLINE OF THE  
19 PROCEDURES THE COUNTY USES WHEN PROCESSING LAND USE CHANGE APPLICATIONS AND  
20 DEADLINES FOR SUBMITTING OFFICIAL COMMENTS.

21           D. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR REQUIRE A COUNTY TO  
22 DENY ANY USE OR OCCUPANCY PERMIT, BUILDING PERMIT, ZONING APPROVAL OR ANY  
23 OTHER PERMIT, APPROVAL OR OTHER AUTHORIZATION BASED ON THE EXISTENCE OF THE  
24 MILITARY ELECTRONICS RANGE OR ITS PROXIMITY TO A PARCEL OF REAL ESTATE.

25           E. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A COUNTY TO MEET THE  
26 NOTIFICATION REQUIREMENTS OF THIS SECTION IF THE STATE LAND DEPARTMENT HAS  
27 NOT PREPARED A MAP OF THE MILITARY ELECTRONICS RANGE.

28           F. FOR THE PURPOSES OF THIS SECTION, "MILITARY ELECTRONICS RANGE"  
29 MEANS THE GEOGRAPHICALLY DEFINED AREA IN WHICH ELECTRONIC COMMUNICATION,  
30 MONITORING OR OTHER DEVICES ARE ROUTINELY TESTED AS A PART OF THE MILITARY  
31 MISSION OF A MILITARY INSTALLATION.

32           ARTICLE 3. COUNTY SUBDIVISION REGULATION

33           11-821. Subdivision regulations; subdivision reservation for  
34 public facilities and services; conditions;  
35 procedures; time limitation

36           A. THE COUNTY BOARD OF SUPERVISORS SHALL REGULATE THE SUBDIVISION OF  
37 ALL LANDS WITHIN ITS CORPORATE LIMITS, EXCEPT SUBDIVISIONS THAT ARE REGULATED  
38 BY MUNICIPALITIES.

39           B. THE COMMISSION SHALL RECOMMEND TO THE BOARD AND THE BOARD SHALL  
40 ADOPT GENERAL REGULATIONS OF UNIFORM APPLICATION GOVERNING PLATS AND  
41 SUBDIVISIONS OF LAND WITHIN ITS AREA OF JURISDICTION. THE REGULATIONS  
42 ADOPTED SHALL SECURE AND PROVIDE FOR THE PROPER ARRANGEMENT OF STREETS OR  
43 OTHER HIGHWAYS IN RELATION TO EXISTING OR PLANNED STREETS, HIGHWAYS OR  
44 BICYCLE FACILITIES OR TO THE OFFICIAL MAP FOR ADEQUATE AND CONVENIENT OPEN  
45 SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF FIREFIGHTING APPARATUS,  
46 RECREATION, LIGHT AND AIR. THE BOARD MAY ADOPT GENERAL REGULATIONS TO  
47 PROVIDE FOR THE PROPER ARRANGEMENT OF HIKING AND EQUESTRIAN TRAILS IN  
48 RELATION TO EXISTING OR PLANNED STREETS OR HIGHWAYS, AND IF ADOPTED, THE

1 HIKING AND EQUESTRIAN TRAILS SHALL CONFORM TO THE OFFICIAL MAP FOR ADEQUATE  
2 AND CONVENIENT OPEN SPACES FOR TRAFFIC, UTILITIES, DRAINAGE, ACCESS OF  
3 FIREFIGHTING APPARATUS, RECREATION, LIGHT AND AIR. THE GENERAL REGULATIONS  
4 MAY PROVIDE FOR MODIFICATION BY THE COMMISSION IN PLANNED AREA DEVELOPMENT OR  
5 SPECIFIC CASES WHERE UNUSUAL TOPOGRAPHICAL OR OTHER EXCEPTIONAL CONDITIONS  
6 MAY REQUIRE SUCH ACTION. THE REGULATIONS SHALL INCLUDE PROVISIONS AS TO THE  
7 EXTENT TO WHICH STREETS AND OTHER HIGHWAYS SHALL BE GRADED AND IMPROVED AND  
8 TO WHICH WATER, SEWER OR OTHER UTILITY MAINS, PIPING OR OTHER FACILITIES  
9 SHALL BE INSTALLED OR PROVIDED FOR ON THE PLAT AS A CONDITION PRECEDENT TO  
10 THE APPROVAL OF THE FINAL PLAT.

11 C. BOARDS OF SUPERVISORS OF COUNTIES SHALL PREPARE SPECIFICATIONS AND  
12 MAKE ORDERS, INSPECTIONS, EXAMINATIONS AND CERTIFICATES AS MAY BE NECESSARY  
13 TO PROTECT AND COMPLETE THE PROVISIONS AND MAKE THEM EFFECTIVE. THE  
14 REGULATIONS SHALL REQUIRE THE POSTING OF PERFORMANCE BONDS, ASSURANCES OR  
15 SUCH OTHER SECURITY AS MAY BE APPROPRIATE AND NECESSARY TO ENSURE THE  
16 INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC AND WATER UTILITIES,  
17 DRAINAGE, FLOOD CONTROL AND IMPROVEMENTS MEETING ESTABLISHED MINIMUM  
18 STANDARDS OF DESIGN AND CONSTRUCTION.

19 D. BEFORE ADOPTION OF REGULATIONS BY THE BOARD OR ANY AMENDMENT AS  
20 PROVIDED IN THIS ARTICLE, THE COMMISSION SHALL HOLD A PUBLIC HEARING. THE  
21 COMMISSION SHALL CERTIFY A COPY OF THE REGULATIONS TO THE COUNTY BOARD OF  
22 SUPERVISORS, WHICH SHALL HOLD A PUBLIC HEARING AFTER NOTICE OF THE TIME AND  
23 PLACE HAS BEEN GIVEN BY ONE PUBLICATION FIFTEEN DAYS BEFORE THE PUBLIC  
24 HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

25 E. A BOARD OF SUPERVISORS MAY REQUIRE BY ORDINANCE THAT LAND AREAS  
26 WITHIN A SUBDIVISION BE RESERVED FOR PARKS, RECREATIONAL FACILITIES, SCHOOL  
27 SITES AND FIRE STATIONS SUBJECT TO THE FOLLOWING CONDITIONS:

28 1. THE REQUIREMENT MAY ONLY BE MADE ON PRELIMINARY PLATS FILED AT  
29 LEAST THIRTY DAYS AFTER THE ADOPTION OF A COMPREHENSIVE PLAN OR AMENDMENT OF  
30 THE PLAN AFFECTING THE LAND AREA TO BE RESERVED.

31 2. THE REQUIRED RESERVATIONS ARE IN ACCORDANCE WITH DEFINITE  
32 PRINCIPLES AND STANDARDS ADOPTED BY THE BOARD OR COMMISSION.

33 3. THE LAND AREA RESERVED IS OF SUCH A SIZE AND SHAPE AS TO PERMIT THE  
34 REMAINDER OF THE LAND AREA OF THE SUBDIVISION WITHIN WHICH THE RESERVATION IS  
35 LOCATED TO DEVELOP IN AN ORDERLY AND EFFICIENT MANNER.

36 4. THE LAND AREA RESERVED IS IN SUCH MULTIPLES OF STREETS AND PARCELS  
37 AS TO PERMIT AN EFFICIENT DIVISION OF THE RESERVED AREA IF IT IS NOT ACQUIRED  
38 WITHIN THE PRESCRIBED PERIOD.

39 F. THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED HAS  
40 ONE YEAR AFTER RECORDING THE FINAL SUBDIVISION PLAT TO ENTER INTO AN  
41 AGREEMENT TO ACQUIRE THE RESERVED LAND AREA. THE PURCHASE PRICE IS THE FAIR  
42 MARKET VALUE OF THE LAND AT THE TIME OF THE FILING OF THE PRELIMINARY  
43 SUBDIVISION PLAT PLUS THE TAXES AGAINST THE RESERVED AREA FROM THE DATE OF  
44 THE RESERVATION AND ANY OTHER COSTS INCURRED BY THE SUBDIVIDER IN THE  
45 MAINTENANCE OF THE RESERVED AREA, INCLUDING INTEREST COST INCURRED ON ANY  
46 LOAN COVERING THE RESERVED AREA.

47 G. IF THE PUBLIC AGENCY FOR WHOSE BENEFIT AN AREA HAS BEEN RESERVED  
48 DOES NOT EXERCISE THE RESERVATION AGREEMENT WITHIN THE ONE YEAR PERIOD OR AN



1 EXTENDED PERIOD MUTUALLY AGREED ON BY THE PUBLIC AGENCY AND THE SUBDIVIDER,  
2 THE RESERVATION OF THE AREA TERMINATES.

3 11-822. Subdivision approval; platting regulations; violation;  
4 classification; easement vesting

5 A. NO PLAT OF A SUBDIVISION OF LAND WITHIN THE AREA OF JURISDICTION OF  
6 THE COUNTY SHALL BE ACCEPTED FOR RECORDING OR RECORDED UNTIL IT HAS BEEN  
7 APPROVED BY THE BOARD. THE APPROVAL OF THE BOARD SHALL BE ENDORSED IN  
8 WRITING ON THE PLAT AND SHALL ALSO INCLUDE SPECIFIC IDENTIFICATION AND  
9 APPROVAL OF THE ASSURANCES, EXCEPT THOSE FOR HIKING AND EQUESTRIAN TRAILS  
10 REQUIRED BY THIS SECTION. IF A COUNTY PLANNING AND ZONING COMMISSION EXISTS,  
11 THE PLAT MAY BE REFERRED TO THE COMMISSION FOR ITS CONSIDERATION AND THE  
12 BOARD MAY RECEIVE THE RECOMMENDATION OF THE COMMISSION. IF THE SUBDIVISION  
13 IS COMPRISED OF SUBDIVIDED LAND, AS DEFINED IN SECTION 32-2101, AND IS WITHIN  
14 AN ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE PLAT SHALL NOT  
15 BE APPROVED UNLESS IT IS ACCOMPANIED BY A CERTIFICATE OF ASSURED WATER SUPPLY  
16 ISSUED BY THE DIRECTOR OF WATER RESOURCES, OR UNLESS THE SUBDIVIDER HAS  
17 OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A  
18 CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER  
19 SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576 OR IS  
20 EXEMPT FROM SUCH A REQUIREMENT PURSUANT TO SECTION 45-576. THE BOARD SHALL  
21 NOTE ON THE FACE OF THE PLAT THAT A CERTIFICATE OF ASSURED WATER SUPPLY HAS  
22 BEEN SUBMITTED WITH THE PLAT OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT  
23 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE  
24 WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO  
25 SECTION 45-576.

26 B. THE GROUND OF REFUSAL OR APPROVAL OF ANY PLAT SUBMITTED, INCLUDING  
27 CITATION OF OR REFERENCE TO THE RULE OR REGULATION VIOLATED BY THE PLAT,  
28 SHALL BE STATED ON THE RECORD OF THE BOARD.

29 C. APPROVAL OF A PLAT SHALL NOT BE DEEMED TO CONSTITUTE OR EFFECT AN  
30 ACCEPTANCE BY THE COUNTY FOR DESIGNATION OF ANY STREET, HIGHWAY, BICYCLE  
31 FACILITY OR OTHER WAY OR OPEN SPACE SHOWN ON THE PLAT INTO THE COUNTY  
32 MAINTENANCE SYSTEM EXCEPT FOR HIKING AND EQUESTRIAN TRAILS THAT ARE  
33 CONSTRUCTED AND MAINTAINED BY THE COUNTY. HOWEVER, AT THE TIME THE STREETS,  
34 HIGHWAYS, BICYCLE FACILITIES OR OTHER WAYS ARE FULLY COMPLETED IN ACCORDANCE  
35 WITH THE APPROVED PLAT AND WRITTEN SPECIFICATIONS MADE BY THE COUNTY BOARD,  
36 THE COUNTY SHALL ACCEPT THE STREETS, HIGHWAYS, BICYCLE FACILITIES AND OTHER  
37 WAYS INTO THE COUNTY MAINTENANCE SYSTEM WITHIN ONE YEAR OF COMPLETION.

38 D. ANY PERSON CAUSING A FINAL PLAT TO BE RECORDED WITHOUT FIRST  
39 SUBMITTING THE PLAT AND OBTAINING APPROVAL OF THE BOARD IS GUILTY OF A CLASS  
40 2 MISDEMEANOR. A COUNTY RECORDER SHALL NOT ACCEPT FOR RECORDING OR RECORD  
41 ANY PLAT THAT HAS NOT BEEN APPROVED AS PROVIDED BY THIS ARTICLE.

42 E. ON RECORDING OF A PLAT, THE FEE OF THE STREETS, ALLEYS, AVENUES,  
43 HIGHWAYS, EASEMENTS, PARKS AND OTHER PARCELS OF GROUND RESERVED TO THE USE OF  
44 THE PUBLIC VESTS IN TRUST IN THE COUNTY FOR THE USES AND TO THE EXTENT  
45 DEPICTED ON THE PLAT, INCLUDING INGRESS AND EGRESS EASEMENTS DEPICTED ON THE  
46 PLAT. ON ANNEXATION BY ANY CITY OR TOWN THE FEE AUTOMATICALLY VESTS IN THE  
47 CITY OR TOWN.

1 F. FOR ANY SUBDIVISION THAT CONSISTS OF LOTS, TRACTS OR PARCELS, EACH  
2 OF WHICH IS OF A SIZE AS PRESCRIBED BY THE BOARD OF SUPERVISORS, THE BOARD  
3 MAY WAIVE THE REQUIREMENT TO PREPARE, SUBMIT AND RECEIVE APPROVAL OF A  
4 PRELIMINARY PLAT AS A CONDITION PRECEDENT TO SUBMITTING A FINAL PLAT AND MAY  
5 WAIVE OR REDUCE INFRASTRUCTURE STANDARDS OR REQUIREMENTS EXCEPT FOR IMPROVED  
6 DUST-CONTROLLED ACCESS AND MINIMUM DRAINAGE IMPROVEMENTS.

7 11-823. Water supply; adequacy; exemptions

8 A. TO PROTECT THE PUBLIC HEALTH AND SAFETY, THE GENERAL REGULATIONS  
9 ADOPTED BY THE BOARD PURSUANT TO SECTION 11-821, SUBSECTION B, IF APPROVED BY  
10 UNANIMOUS VOTE OF THE BOARD OF SUPERVISORS, MAY PROVIDE THAT, EXCEPT AS  
11 PROVIDED IN SUBSECTION C AND SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, THE  
12 BOARD SHALL NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED  
13 LANDS, AS DEFINED IN SECTION 32-2101, LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT  
14 AREA, AS DEFINED IN SECTION 45-402, UNLESS ONE OF THE FOLLOWING APPLIES:

15 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
16 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE  
17 SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

18 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE  
19 FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS  
20 HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
21 TO SECTION 45-108.

22 B. IF THE BOARD UNANIMOUSLY ADOPTS THE PROVISION AUTHORIZED BY  
23 SUBSECTION A OF THIS SECTION:

24 1. THE BOARD MAY INCLUDE IN THE GENERAL REGULATIONS AN EXEMPTION FROM  
25 THE PROVISION FOR A SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS  
26 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY BECAUSE THE WATER SUPPLY WILL  
27 BE TRANSPORTED TO THE SUBDIVISION BY MOTOR VEHICLE OR TRAIN IF ALL OF THE  
28 FOLLOWING APPLY:

29 (a) THE BOARD DETERMINES THAT THERE IS NO FEASIBLE ALTERNATIVE WATER  
30 SUPPLY FOR THE SUBDIVISION AND THAT THE TRANSPORTATION OF WATER TO THE  
31 SUBDIVISION WILL NOT CONSTITUTE A SIGNIFICANT RISK TO THE HEALTH AND SAFETY  
32 OF THE RESIDENTS OF THE SUBDIVISION.

33 (b) IF THE WATER TO BE TRANSPORTED TO THE SUBDIVISION WILL BE  
34 WITHDRAWN OR DIVERTED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER AS DEFINED  
35 IN SECTION 45-561, THE MUNICIPAL PROVIDER HAS CONSENTED TO THE WITHDRAWAL OR  
36 DIVERSION.

37 (c) IF THE WATER TO BE TRANSPORTED IS GROUNDWATER, THE TRANSPORTATION  
38 COMPLIES WITH THE PROVISIONS GOVERNING THE TRANSPORTATION OF GROUNDWATER IN  
39 TITLE 45, CHAPTER 2, ARTICLE 8.

40 (d) THE TRANSPORTATION OF WATER TO THE SUBDIVISION MEETS ANY  
41 ADDITIONAL CONDITIONS IMPOSED BY THE COUNTY.

42 2. THE BOARD SHALL PROMPTLY GIVE WRITTEN NOTICE OF THE ADOPTION OF THE  
43 PROVISION TO THE DIRECTOR OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL  
44 QUALITY AND THE STATE REAL ESTATE COMMISSIONER. THE NOTICE SHALL INCLUDE A  
45 CERTIFIED COPY OF THE PROVISION AND ANY EXEMPTIONS ADOPTED PURSUANT TO  
46 PARAGRAPH 1 OF THIS SUBSECTION. WATER PROVIDERS MAY BE ELIGIBLE TO RECEIVE  
47 MONIES IN A WATER SUPPLY DEVELOPMENT FUND, AS OTHERWISE PROVIDED BY LAW.

1           3. THE BOARD SHALL NOT RESCIND THE PROVISION OR AMEND IT IN A MANNER  
2 THAT IS INCONSISTENT WITH SUBSECTION A OF THIS SECTION. IF THE BOARD AMENDS  
3 THE PROVISION, IT SHALL GIVE WRITTEN NOTICE OF THE AMENDMENT TO THE DIRECTOR  
4 OF WATER RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL  
5 ESTATE COMMISSIONER. THE BOARD MAY RESCIND AN EXEMPTION ADOPTED PURSUANT TO  
6 PARAGRAPH 1 OF THIS SUBSECTION. IF THE BOARD RESCINDS THE EXEMPTION, IT  
7 SHALL GIVE WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER  
8 RESOURCES, THE DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE  
9 COMMISSIONER, AND THE BOARD SHALL NOT READOPT THE EXEMPTION FOR AT LEAST FIVE  
10 YEARS AFTER THE RESCISSION BECOMES EFFECTIVE.

11           4. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION A,  
12 PARAGRAPH 1 OR 2 OF THIS SECTION, THE BOARD SHALL NOTE ON THE FACE OF THE  
13 PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION  
14 HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT  
15 OF WATER SERVICE FOR THE PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE  
16 WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO  
17 SECTION 45-108.

18           5. IF THE BOARD APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION  
19 AUTHORIZED BY PARAGRAPH 1 OF THIS SUBSECTION OR GRANTED BY THE DIRECTOR OF  
20 WATER RESOURCES PURSUANT TO SECTION 45-108.02 OR 45-108.03:

21           (a) THE BOARD SHALL GIVE WRITTEN NOTICE OF THE APPROVAL TO THE  
22 DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

23           (b) THE BOARD SHALL INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT  
24 THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE  
25 SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER  
26 WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE BOARD OR THE  
27 DIRECTOR OF WATER RESOURCES, WHICHEVER APPLIES, HAS DETERMINED THAT THE  
28 SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR OF WATER  
29 RESOURCES SUBSEQUENTLY INFORMS THE BOARD THAT THE SUBDIVISION IS BEING SERVED  
30 BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN  
31 ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108, THE BOARD SHALL RECORD IN  
32 THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

33           C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

34           1. A PROPOSED SUBDIVISION THAT THE DIRECTOR OF WATER RESOURCES HAS  
35 DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108 IF  
36 THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION  
37 45-108.02 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN  
38 EXEMPTION PURSUANT TO SECTION 45-108.03.

39           2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM THE  
40 COUNTY BEFORE THE REQUIREMENT FOR AN ADEQUATE WATER SUPPLY BECAME EFFECTIVE  
41 IN THE COUNTY IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED  
42 THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT  
43 RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL  
44 DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY  
45 THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THE COUNTY APPROVES A PLAT  
46 PURSUANT TO THIS PARAGRAPH AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED  
47 THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO  
48 SECTION 45-108, THE COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

1 D. IF THE SUBDIVISION IS COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN  
2 SECTION 32-2101 OUTSIDE OF AN ACTIVE MANAGEMENT AREA AND THE BOARD HAS NOT  
3 ADOPTED A PROVISION PURSUANT TO SUBSECTION A OF THIS SECTION:

4 1. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
5 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 OR IF  
6 THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE  
7 SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING  
8 AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO  
9 SECTION 45-108, THE BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT  
10 IS APPROVED.

11 2. IF THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN  
12 INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108, THE  
13 BOARD SHALL NOTE THIS ON THE FACE OF THE PLAT IF THE PLAT IS APPROVED.

14 ARTICLE 4. LAND DIVISIONS; APPEALS; MORATORIUMS

15 11-831. Review of land divisions; definitions

16 A. THE BOARD OF SUPERVISORS OF EACH COUNTY MAY ADOPT ORDINANCES AND  
17 REGULATIONS PURSUANT TO THIS SECTION FOR STAFF REVIEW AND APPROVAL OF LAND  
18 DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL INTERESTS, ANY OF  
19 WHICH IS TEN ACRES OR SMALLER IN SIZE. THE COUNTY MAY NOT DENY APPROVAL OF  
20 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION. IF REVIEW OF  
21 THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS AFTER RECEIVING THE REQUEST,  
22 THE LAND DIVISION IS CONSIDERED TO BE APPROVED. AT ITS OPTION, THE BOARD OF  
23 SUPERVISORS MAY SUBMIT A BALLOT QUESTION TO THE VOTERS OF THE COUNTY TO ALLOW  
24 THE VOTERS TO DETERMINE THE APPLICATION OF SUBSECTIONS B AND C TO QUALIFYING  
25 LAND DIVISIONS IN THAT COUNTY.

26 B. AN APPLICATION TO SPLIT A PARCEL OF LAND SHALL BE APPROVED IF:

27 1. THE LOTS, PARCELS OR FRACTIONAL INTERESTS EACH MEET THE MINIMUM  
28 APPLICABLE COUNTY ZONING REQUIREMENTS OF THE APPLICABLE ZONING DESIGNATION.

29 2. THE APPLICANT PROVIDES A STANDARD PRELIMINARY TITLE REPORT OR OTHER  
30 ACCEPTABLE DOCUMENT THAT DEMONSTRATES LEGAL ACCESS TO THE LOTS, PARCELS OR  
31 FRACTIONAL INTERESTS.

32 3. THE APPLICANT PROVIDES A STATEMENT FROM A LICENSED SURVEYOR OR  
33 ENGINEER, OR OTHER EVIDENCE ACCEPTABLE TO THE COUNTY, STATING WHETHER EACH  
34 LOT, PARCEL OR FRACTIONAL INTEREST HAS PHYSICAL ACCESS THAT IS TRAVERSABLE BY  
35 A TWO-WHEEL DRIVE PASSENGER MOTOR VEHICLE.

36 4. THE APPLICANT RESERVES THE NECESSARY AND APPROPRIATE UTILITY  
37 EASEMENTS TO SERVE EACH LOT, PARCEL OR FRACTIONAL INTEREST CREATED BY THE  
38 LAND DIVISION.

39 C. AN APPLICATION TO SPLIT A PARCEL OF LAND THAT DOES NOT COMPLY WITH  
40 ONE OR MORE OF THE ITEMS LISTED IN SUBSECTION B SHALL STILL BE APPROVED IF  
41 THE APPLICANT PROVIDES AN ACKNOWLEDGMENT THAT IS SIGNED BY THE APPLICANT AND  
42 THAT CONFIRMS THAT NO BUILDING OR USE PERMIT WILL BE ISSUED BY THE COUNTY  
43 UNTIL THE LOT, PARCEL OR FRACTIONAL INTEREST HAS MET THE REQUIREMENTS OF  
44 SUBSECTION B. THE COUNTY MAY GRANT A VARIANCE FROM ONE OR MORE OF THE ITEMS  
45 LISTED IN SUBSECTION B.

46 D. ANY APPROVAL OF A LAND DIVISION UNDER THIS SECTION MAY:

1           1. INCLUDE THE MINIMUM STATUTORY REQUIREMENTS FOR LEGAL AND PHYSICAL  
2 ON-SITE ACCESS THAT MUST BE MET AS A CONDITION TO THE ISSUANCE OF A BUILDING  
3 OR USE PERMIT FOR THE LOTS, PARCELS OR FRACTIONAL INTERESTS.

4           2. IDENTIFY TOPOGRAPHIC, HYDROLOGIC OR OTHER SITE CONSTRAINTS,  
5 REQUIREMENTS OR LIMITATIONS THAT MUST BE ADDRESSED AS CONDITIONS TO THE  
6 EVENTUAL ISSUANCE OF A BUILDING OR USE PERMIT. THESE CONSTRAINTS,  
7 REQUIREMENTS OR LIMITATIONS MAY BE AS NOTED BY THE APPLICANT OR THROUGH  
8 COUNTY STAFF REVIEW, BUT THERE SHALL BE NO REQUIREMENT FOR INDEPENDENT  
9 STUDIES.

10          E. IF THE REQUIREMENTS OF SUBSECTIONS A THROUGH D DO NOT APPLY, A  
11 COUNTY MAY ADOPT ORDINANCES AND REGULATIONS PURSUANT TO THIS CHAPTER FOR  
12 STAFF REVIEW OF LAND DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL  
13 INTERESTS BUT ONLY TO DETERMINE COMPLIANCE WITH MINIMUM APPLICABLE COUNTY  
14 ZONING REQUIREMENTS AND LEGAL ACCESS AND MAY GRANT WAIVERS FROM THE COUNTY  
15 ZONING AND LEGAL ACCESS REQUIREMENTS. THE COUNTY MAY NOT DENY APPROVAL OF  
16 ANY LAND DIVISION THAT MEETS THE REQUIREMENTS OF THIS SECTION OR WHERE THE  
17 DEFICIENCIES ARE NOTICED IN THE DEED. A COUNTY MAY NOT REQUIRE A PUBLIC  
18 HEARING ON A REQUEST TO DIVIDE FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL  
19 INTERESTS. IF REVIEW OF THE REQUEST IS NOT COMPLETED WITHIN THIRTY DAYS FROM  
20 RECEIPT OF THE REQUEST, THE LAND DIVISION SHALL BE DEEMED APPROVED. IF NO  
21 LEGAL ACCESS IS AVAILABLE, THE LEGAL ACCESS DOES NOT ALLOW ACCESS BY  
22 EMERGENCY VEHICLES OR THE COUNTY ZONING REQUIREMENTS ARE NOT MET, THE ACCESS  
23 OR ZONING DEFICIENCIES SHALL BE NOTICED IN THE DEED. IF A COUNTY BY  
24 ORDINANCE REQUIRES A LEGAL ACCESS OF MORE THAN TWENTY-FOUR FEET ROADWAY  
25 WIDTH, THE COUNTY IS RESPONSIBLE FOR THE IMPROVEMENT AND MAINTENANCE OF THE  
26 IMPROVEMENT. IF THE LEGAL ACCESS DOES NOT ALLOW ACCESS TO THE LOTS, PARCELS  
27 OR FRACTIONAL INTERESTS BY EMERGENCY VEHICLES, NEITHER THE COUNTY NOR ITS  
28 AGENTS OR EMPLOYEES ARE LIABLE FOR DAMAGES RESULTING FROM THE FAILURE OF  
29 EMERGENCY VEHICLES TO REACH THE LOT, PARCEL OR FRACTIONAL INTEREST.

30          F. IT IS UNLAWFUL FOR A PERSON OR GROUP OF PERSONS ACTING IN CONCERT  
31 TO ATTEMPT TO AVOID THIS SECTION OR THE SUBDIVISION LAWS OF THIS STATE BY  
32 ACTING IN CONCERT TO DIVIDE A PARCEL OF LAND INTO SIX OR MORE LOTS OR SELL OR  
33 LEASE SIX OR MORE LOTS BY USING A SERIES OF OWNERS OR CONVEYANCES. ANY  
34 COUNTY WHERE THE DIVISION OCCURRED OR THE STATE REAL ESTATE DEPARTMENT  
35 PURSUANT TO TITLE 32, CHAPTER 20 MAY ENFORCE THIS PROHIBITION.

36          G. FOR THE PURPOSES OF THIS SECTION:

37           1. "LEGAL ACCESS" MEANS A PUBLIC RIGHT OF VEHICULAR INGRESS AND EGRESS  
38 BETWEEN THE LOTS, PARCELS OR FRACTIONAL INTERESTS BEING CREATED.

39           2. "MINIMUM APPLICABLE COUNTY ZONING REQUIREMENTS" MEANS THE MINIMUM  
40 ACREAGE AND DIMENSIONS OF THE RESULTING LOT, PARCEL OR FRACTIONAL INTEREST AS  
41 REQUIRED BY THE COUNTY'S ZONING ORDINANCE.

42           3. "UTILITY EASEMENT" MEANS AN EASEMENT OF EIGHT FEET IN WIDTH  
43 DEDICATED TO THE GENERAL PUBLIC TO INSTALL, MAINTAIN AND ACCESS SEWER,  
44 ELECTRIC, GAS AND WATER UTILITIES.

45       11-832. Appeals of county actions; dedication or exaction;  
46 excessive reduction in property value; burden of  
47 proof; attorney fees; compliance with court  
48 decisions

1           A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A PROPERTY  
2 OWNER MAY APPEAL THE FOLLOWING ACTIONS RELATING TO THE OWNER'S PROPERTY BY A  
3 COUNTY, OR AN ADMINISTRATIVE AGENCY OR OFFICIAL OF A COUNTY, IN THE MANNER  
4 PRESCRIBED BY THIS SECTION:

5           1. THE REQUIREMENT BY A COUNTY OF A DEDICATION OR EXACTION AS A  
6 CONDITION OF GRANTING APPROVAL FOR THE USE, IMPROVEMENT OR DEVELOPMENT OF  
7 REAL PROPERTY. THIS SECTION DOES NOT APPLY TO A DEDICATION OR EXACTION THAT  
8 IS REQUIRED IN A LEGISLATIVE ACT OF THE BOARD OF SUPERVISORS AND THAT DOES  
9 NOT GIVE DISCRETION TO AN ADMINISTRATIVE AGENCY OR OFFICIAL TO DETERMINE THE  
10 NATURE OR EXTENT OF THE DEDICATION OR EXACTION.

11           2. THE ADOPTION OR AMENDMENT OF A ZONING REGULATION BY A COUNTY THAT  
12 CREATES A TAKING IN VIOLATION OF SUBSECTION I.

13           B. THE COUNTY SHALL NOTIFY THE PROPERTY OWNER THAT THE PROPERTY OWNER  
14 HAS THE RIGHT TO APPEAL THE COUNTY'S ACTION PURSUANT TO THIS SECTION AND  
15 SHALL PROVIDE A DESCRIPTION OF THE APPEAL PROCEDURE. THE COUNTY SHALL NOT  
16 REQUEST THE PROPERTY OWNER TO WAIVE THE RIGHT OF APPEAL OR TRIAL DE NOVO AT  
17 ANY TIME DURING THE CONSIDERATION OF THE PROPERTY OWNER'S REQUEST.

18           C. THE APPEAL SHALL BE IN WRITING AND FILED WITH OR MAILED TO A  
19 HEARING OFFICER DESIGNATED BY THE BOARD OF SUPERVISORS WITHIN THIRTY DAYS  
20 AFTER THE FINAL ACTION IS TAKEN. THE COUNTY SHALL SUBMIT A TAKINGS IMPACT  
21 REPORT TO THE HEARING OFFICER. A FEE SHALL NOT BE CHARGED FOR FILING THE  
22 APPEAL.

23           D. AFTER RECEIPT OF AN APPEAL, THE HEARING OFFICER SHALL SCHEDULE A  
24 TIME FOR THE APPEAL TO BE HEARD NOT LATER THAN THIRTY DAYS AFTER RECEIPT.  
25 THE PROPERTY OWNER SHALL BE GIVEN AT LEAST TEN DAYS' NOTICE OF THE TIME WHEN  
26 THE APPEAL WILL BE HEARD UNLESS THE PROPERTY OWNER AGREES TO A SHORTER TIME  
27 PERIOD.

28           E. IN ALL PROCEEDINGS UNDER THIS SECTION THE COUNTY HAS THE BURDEN TO  
29 ESTABLISH THAT THERE IS AN ESSENTIAL NEXUS BETWEEN THE DEDICATION OR EXACTION  
30 AND A LEGITIMATE GOVERNMENTAL INTEREST AND THAT THE PROPOSED DEDICATION,  
31 EXACTION OR ZONING REGULATION IS ROUGHLY PROPORTIONAL TO THE IMPACT OF THE  
32 PROPOSED USE, IMPROVEMENT OR DEVELOPMENT OR, IN THE CASE OF A ZONING  
33 REGULATION, THAT THE ZONING REGULATION DOES NOT CREATE A TAKING OF PROPERTY  
34 IN VIOLATION OF SUBSECTION I. IF MORE THAN A SINGLE PARCEL IS INVOLVED, THIS  
35 REQUIREMENT APPLIES TO THE ENTIRE PROPERTY.

36           F. THE HEARING OFFICER SHALL DECIDE THE APPEAL WITHIN FIVE WORKING  
37 DAYS AFTER THE APPEAL IS HEARD. IF THE COUNTY DOES NOT MEET ITS BURDEN UNDER  
38 SUBSECTION E, THE HEARING OFFICER SHALL:

39           1. MODIFY OR DELETE THE REQUIREMENT OF THE DEDICATION OR EXACTION  
40 APPEALED UNDER SUBSECTION A, PARAGRAPH 1.

41           2. IN THE CASE OF A ZONING REGULATION APPEALED UNDER SUBSECTION A,  
42 PARAGRAPH 2, THE HEARING OFFICER SHALL TRANSMIT A RECOMMENDATION TO THE BOARD  
43 OF SUPERVISORS.

44           G. IF THE HEARING OFFICER MODIFIES OR AFFIRMS THE REQUIREMENT OF THE  
45 DEDICATION, EXACTION OR ZONING REGULATION, A PROPERTY OWNER AGGRIEVED BY A  
46 DECISION OF THE HEARING OFFICER, AT ANY TIME WITHIN THIRTY DAYS AFTER THE  
47 HEARING OFFICER HAS RENDERED A DECISION, MAY FILE A COMPLAINT FOR A TRIAL DE  
48 NOVO IN THE SUPERIOR COURT ON THE FACTS AND THE LAW REGARDING THE ISSUES OF

1 THE CONDITION OR REQUIREMENT OF THE DEDICATION, EXACTION OR ZONING  
2 REGULATION. PURSUANT TO THE STANDARDS FOR GRANTING PRELIMINARY INJUNCTIONS,  
3 THE COURT MAY EXERCISE ANY LEGAL OR EQUITABLE INTERIM REMEDIES THAT WILL  
4 PERMIT THE PROPERTY OWNER TO PROCEED WITH THE USE, ENJOYMENT AND DEVELOPMENT  
5 OF THE REAL PROPERTY BUT THAT WILL NOT RENDER MOOT ANY DECISION UPHOLDING THE  
6 DEDICATION, EXACTION OR ZONING REGULATION.

7 H. ALL MATTERS PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS  
8 SECTION HAVE PREFERENCE ON THE COURT CALENDAR ON THE SAME BASIS AS  
9 CONDEMNATION MATTERS, AND THE COURT MAY AWARD REASONABLE ATTORNEY FEES  
10 INCURRED IN THE APPEAL AND TRIAL PURSUANT TO THIS SECTION TO THE PREVAILING  
11 PARTY. THE COURT MAY FURTHER AWARD DAMAGES THAT ARE DEEMED APPROPRIATE TO  
12 COMPENSATE THE PROPERTY OWNER FOR DIRECT AND ACTUAL DELAY DAMAGES ON A  
13 FINDING THAT THE COUNTY ACTED IN BAD FAITH.

14 I. A COUNTY OR AN AGENCY OR INSTRUMENTALITY OF A COUNTY SHALL COMPLY  
15 WITH THE UNITED STATES SUPREME COURT CASES OF DOLAN V. CITY OF TIGARD, 512  
16 U.S. 374 (1994), NOLLAN V. CALIFORNIA COASTAL COMMISSION, 483 U.S. 825  
17 (1987), LUCAS V. SOUTH CAROLINA COASTAL COUNCIL, 505 U.S. 1003 (1992), FIRST  
18 ENGLISH EVANGELICAL LUTHERAN CHURCH V. COUNTY OF LOS ANGELES, 482 U.S. 304  
19 (1987), PALAZZOLO V. RHODE ISLAND, 533 U.S. 606 (2001), TAHOE-SIERRA  
20 PRESERVATION COUNCIL, INC. V. TAHOE REGIONAL PLANNING AGENCY, 535 U.S. 320  
21 (2002) AND ARIZONA AND FEDERAL APPELLATE COURT DECISIONS THAT ARE BINDING ON  
22 ARIZONA COUNTIES INTERPRETING OR APPLYING THOSE CASES.

23 11-833. Standards for enactment of moratorium; land  
24 development; limitations; definitions

25 A. A COUNTY SHALL NOT ADOPT A MORATORIUM ON CONSTRUCTION OR LAND  
26 DEVELOPMENT UNLESS IT FIRST:

27 1. PROVIDES NOTICE TO THE PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF  
28 GENERAL CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL  
29 PUBLIC HEARING TO BE HELD TO CONSIDER THE ADOPTION OF THE MORATORIUM.

30 2. MAKES WRITTEN FINDINGS JUSTIFYING THE NEED FOR THE MORATORIUM IN  
31 THE MANNER PROVIDED FOR IN THIS SECTION.

32 3. HOLDS A PUBLIC HEARING ON THE ADOPTION OF THE MORATORIUM AND THE  
33 FINDINGS THAT SUPPORT THE MORATORIUM.

34 B. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION, A  
35 MORATORIUM MAY BE JUSTIFIED BY DEMONSTRATION OF A NEED TO PREVENT A SHORTAGE  
36 OF ESSENTIAL PUBLIC FACILITIES THAT WOULD OTHERWISE OCCUR DURING THE  
37 EFFECTIVE PERIOD OF THE MORATORIUM. THIS DEMONSTRATION SHALL BE BASED ON  
38 REASONABLY AVAILABLE INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING  
39 FINDINGS:

40 1. A SHOWING OF THE EXTENT OF NEED BEYOND THE ESTIMATED CAPACITY OF  
41 EXISTING ESSENTIAL PUBLIC FACILITIES EXPECTED TO RESULT FROM NEW LAND  
42 DEVELOPMENT, INCLUDING IDENTIFICATION OF ANY ESSENTIAL PUBLIC FACILITIES  
43 CURRENTLY OPERATING BEYOND CAPACITY AND THE PORTION OF THIS CAPACITY ALREADY  
44 COMMITTED TO DEVELOPMENT, OR IN THE CASE OF WATER RESOURCES, A SHOWING THAT,  
45 IN AN ACTIVE MANAGEMENT AREA AS DEFINED IN SECTION 45-402, AN ASSURED WATER  
46 SUPPLY CANNOT BE PROVIDED, OR OUTSIDE AN ACTIVE MANAGEMENT AREA, A SUFFICIENT  
47 WATER SUPPLY CANNOT BE PROVIDED, TO THE NEW LAND DEVELOPMENT, INCLUDING

1 IDENTIFICATION OF CURRENT WATER RESOURCES AND THE PORTION ALREADY COMMITTED  
2 TO DEVELOPMENT.

3 2. THAT THE MORATORIUM IS REASONABLY LIMITED TO THOSE AREAS OF THE  
4 COUNTY WHERE A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES WOULD OTHERWISE OCCUR  
5 AND ON PROPERTY THAT HAS NOT RECEIVED DEVELOPMENT APPROVALS BASED ON THE  
6 SUFFICIENCY OF EXISTING ESSENTIAL PUBLIC FACILITIES.

7 3. THAT THE HOUSING AND ECONOMIC DEVELOPMENT NEEDS OF THE AREA  
8 AFFECTED HAVE BEEN ACCOMMODATED AS MUCH AS POSSIBLE IN ANY PROGRAM FOR  
9 ALLOCATING ANY REMAINING ESSENTIAL PUBLIC FACILITY CAPACITY.

10 C. A MORATORIUM NOT BASED ON A SHORTAGE OF ESSENTIAL PUBLIC FACILITIES  
11 UNDER SUBSECTION B OF THIS SECTION MAY BE JUSTIFIED ONLY BY A DEMONSTRATION  
12 OF COMPELLING NEED FOR OTHER PUBLIC FACILITIES, INCLUDING POLICE AND FIRE  
13 FACILITIES. THIS DEMONSTRATION SHALL BE BASED ON REASONABLY AVAILABLE  
14 INFORMATION AND SHALL INCLUDE AT LEAST THE FOLLOWING FINDINGS:

15 1. FOR URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION:

16 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS  
17 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM  
18 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

19 (b) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT A  
20 NEEDED SUPPLY OF AFFECTED HOUSING TYPES AND THE SUPPLY OF COMMERCIAL AND  
21 INDUSTRIAL FACILITIES WITHIN OR IN PROXIMITY TO THE COUNTY ARE NOT  
22 UNREASONABLY RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

23 (c) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES  
24 OF THE MORATORIUM ARE UNSATISFACTORY.

25 (d) THAT THE COUNTY HAS DETERMINED THAT THE PUBLIC HARM THAT WOULD BE  
26 CAUSED BY FAILURE TO IMPOSE A MORATORIUM OUTWEIGHS THE ADVERSE EFFECTS ON  
27 OTHER AFFECTED LOCAL GOVERNMENTS, INCLUDING SHIFTS IN DEMAND FOR HOUSING OR  
28 ECONOMIC DEVELOPMENT, PUBLIC FACILITIES AND SERVICES AND BUILDABLE LANDS AND  
29 THE OVERALL IMPACT OF THE MORATORIUM ON POPULATION DISTRIBUTION.

30 (e) THAT THE CITY OR TOWN PROPOSING THE MORATORIUM HAS DEVELOPED A  
31 WORK PLAN AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

32 2. FOR RURAL LAND:

33 (a) THAT APPLICATION OF EXISTING DEVELOPMENT ORDINANCES OR REGULATIONS  
34 AND OTHER APPLICABLE LAW IS INADEQUATE TO PREVENT IRREVOCABLE PUBLIC HARM  
35 FROM DEVELOPMENT IN AFFECTED GEOGRAPHICAL AREAS.

36 (b) THE REASONS THAT ALTERNATIVE METHODS OF ACHIEVING THE OBJECTIVES  
37 OF THE MORATORIUM ARE UNSATISFACTORY.

38 (c) THAT THE MORATORIUM IS SUFFICIENTLY LIMITED TO ENSURE THAT LOTS OR  
39 PARCELS OUTSIDE THE AFFECTED GEOGRAPHICAL AREAS ARE NOT UNREASONABLY  
40 RESTRICTED BY THE ADOPTION OF THE MORATORIUM.

41 (d) THAT THE COUNTY PROPOSING THE MORATORIUM HAS DEVELOPED A WORK PLAN  
42 AND TIME SCHEDULE FOR ACHIEVING THE OBJECTIVES OF THE MORATORIUM.

43 D. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION DOES NOT AFFECT ANY  
44 EXPRESS PROVISION IN A DEVELOPMENT AGREEMENT ENTERED INTO PURSUANT TO SECTION  
45 9-500.05 OR AS DEFINED IN SECTION 11-1101 GOVERNING THE RATE, TIMING AND  
46 SEQUENCING OF DEVELOPMENT, NOR DOES IT AFFECT RIGHTS ACQUIRED PURSUANT TO A  
47 PROTECTED DEVELOPMENT RIGHT GRANTED ACCORDING TO CHAPTER 9 OF THIS TITLE OR  
48 TITLE 9, CHAPTER 11. ANY MORATORIUM ADOPTED PURSUANT TO THIS SECTION SHALL



1 PROVIDE A PROCEDURE PURSUANT TO WHICH AN INDIVIDUAL LANDOWNER MAY APPLY FOR A  
2 WAIVER OF THE MORATORIUM'S APPLICABILITY TO ITS PROPERTY BY CLAIMING RIGHTS  
3 OBTAINED PURSUANT TO A DEVELOPMENT AGREEMENT, A PROTECTED DEVELOPMENT RIGHT  
4 OR ANY VESTED RIGHT OR BY PROVIDING THE PUBLIC FACILITIES THAT ARE THE  
5 SUBJECT OF THE MORATORIUM AT THE LANDOWNER'S COST.

6 E. A MORATORIUM ADOPTED UNDER SUBSECTION C, PARAGRAPH 1 OF THIS  
7 SECTION SHALL NOT REMAIN IN EFFECT FOR MORE THAN ONE HUNDRED TWENTY DAYS, BUT  
8 SUCH A MORATORIUM MAY BE EXTENDED FOR ADDITIONAL PERIODS OF TIME OF UP TO ONE  
9 HUNDRED TWENTY DAYS IF THE COUNTY ADOPTING THE MORATORIUM HOLDS A PUBLIC  
10 HEARING ON THE PROPOSED EXTENSION AND ADOPTS WRITTEN FINDINGS THAT:

11 1. VERIFY THE PROBLEM REQUIRING THE NEED FOR THE MORATORIUM TO BE  
12 EXTENDED.

13 2. DEMONSTRATE THAT REASONABLE PROGRESS IS BEING MADE TO ALLEVIATE THE  
14 PROBLEM RESULTING IN THE MORATORIUM.

15 3. SET A SPECIFIC DURATION FOR THE RENEWAL OF THE MORATORIUM.

16 F. A COUNTY CONSIDERING AN EXTENSION OF A MORATORIUM SHALL PROVIDE  
17 NOTICE TO THE GENERAL PUBLIC PUBLISHED ONCE IN A NEWSPAPER OF GENERAL  
18 CIRCULATION IN THE COMMUNITY AT LEAST THIRTY DAYS BEFORE A FINAL HEARING IS  
19 HELD TO CONSIDER AN EXTENSION OF A MORATORIUM.

20 G. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM COMPLYING WITH  
21 ANY STATE OR FEDERAL LAW, REGULATION OR ORDER ISSUED IN WRITING BY A LEGALLY  
22 AUTHORIZED GOVERNMENTAL ENTITY.

23 H. A LANDOWNER AGGRIEVED BY A COUNTY'S ADOPTION OF A MORATORIUM  
24 PURSUANT TO THIS SECTION, AT ANY TIME WITHIN THIRTY DAYS AFTER THE MORATORIUM  
25 HAS BEEN ADOPTED, MAY FILE A COMPLAINT FOR A TRIAL DE NOVO IN THE SUPERIOR  
26 COURT ON THE FACTS AND THE LAW REGARDING THE MORATORIUM. ALL MATTERS  
27 PRESENTED TO THE SUPERIOR COURT PURSUANT TO THIS SECTION HAVE PREFERENCE ON  
28 THE COURT CALENDAR ON THE SAME BASIS AS CONDEMNATION MATTERS. THE COURT MAY  
29 AWARD REASONABLE ATTORNEY FEES INCURRED IN THE APPEAL AND TRIAL PURSUANT TO  
30 THIS SECTION TO THE PREVAILING PARTY.

31 I. FOR THE PURPOSES OF THIS SECTION:

32 1. "COMPELLING NEED" MEANS A CLEAR AND IMMINENT DANGER TO THE HEALTH  
33 AND SAFETY OF THE PUBLIC.

34 2. "ESSENTIAL PUBLIC FACILITIES" MEANS WATER, SEWER AND STREET  
35 IMPROVEMENTS AND WATER RESOURCES TO THE EXTENT THAT THESE IMPROVEMENTS AND  
36 WATER RESOURCES ARE PROVIDED BY THE COUNTY OR PRIVATE UTILITY.

37 3. "MORATORIUM ON CONSTRUCTION OR LAND DEVELOPMENT" MEANS ENGAGING IN  
38 A PATTERN OR PRACTICE OF DELAYING OR STOPPING ISSUANCE OF PERMITS,  
39 AUTHORIZATIONS OR APPROVALS NECESSARY FOR THE SUBDIVISION AND PARTITIONING  
40 OF, OR CONSTRUCTION ON, ANY LAND. IT DOES NOT INCLUDE DENIAL OR DELAY OF  
41 PERMITS OR AUTHORIZATIONS BECAUSE THEY ARE INCONSISTENT WITH APPLICABLE  
42 STATUTES, RULES, ZONING OR OTHER ORDINANCES.

43 4. "RURAL LAND" MEANS ALL PROPERTY IN THE UNINCORPORATED AREA OF A  
44 COUNTY OR IN THE INCORPORATED AREA OF THE CITY OR TOWN WITH A POPULATION OF  
45 TWO THOUSAND NINE HUNDRED OR LESS PERSONS.

46 5. "URBAN LAND OR LAND SUBJECT TO POTENTIAL URBANIZATION" MEANS ALL  
47 PROPERTY IN THE INCORPORATED AREA OF A CITY OR TOWN WITH A POPULATION OF MORE  
48 THAN TWO THOUSAND NINE HUNDRED PERSONS.

1           6. "VESTED RIGHT" MEANS A RIGHT TO DEVELOP PROPERTY ESTABLISHED BY THE  
2 EXPENDITURE OF SUBSTANTIAL SUMS OF MONEY PURSUANT TO A PERMIT OR APPROVAL  
3 GRANTED BY THE CITY, TOWN OR COUNTY.

4           Sec. 7. Section 11-866, Arizona Revised Statutes, is amended to read:

5           11-866. Penalties

6           A penalty clause contained in a code adopted by reference shall not be  
7 adopted by reference but shall be set forth in full in the adopting  
8 ordinance. The penalty provisions of section ~~11-808~~ 11-815 may be applied by  
9 the county in enforcing ~~the provisions of~~ this article.

10          Sec. 8. Section 11-1101, Arizona Revised Statutes, is amended to read:

11          11-1101. Development agreements

12          A. A county, by resolution or ordinance, may enter into development  
13 agreements relating to property located outside the incorporated area of a  
14 city or town.

15          B. The development agreement shall be between the county and a  
16 landowner or any other person having an interest in real property and may  
17 specify or otherwise relate to any of the following:

18           1. The duration of the agreement.

19           2. The permitted uses of property subject to the agreement.

20           3. The density and intensity of uses and the maximum height and size  
21 of proposed buildings within the property.

22           4. Provisions for reservation or dedication of land for public  
23 purposes and provisions to protect environmentally sensitive lands.

24           5. Provisions for preservation and restoration of historic structures.

25           6. The phasing or time of construction or development on the property.

26           7. Conditions, terms, restrictions, financing and requirements for  
27 public infrastructure and subsequent reimbursements over time.

28           8. Conditions, terms, restrictions and requirements relating to the  
29 county's intent to form a special taxing district pursuant to title 48.

30           9. Conditions of sewer services.

31           10. Any other matters relating to the development of the property.

32          C. A development agreement shall be consistent with the county  
33 comprehensive plan adopted pursuant to chapter 6, article ~~2-1~~ of this title  
34 and applies to the property on the date the development agreement is  
35 executed.

36          D. A development agreement may be amended, or cancelled in whole or in  
37 part, by mutual consent of the parties to the development agreement or by  
38 their successors in interest or assigns.

39          E. Within ten days after a development agreement is executed, the  
40 county shall record a copy of the agreement with the county recorder, and the  
41 recordation constitutes notice of the development agreement to all persons.  
42 The burdens of the development agreement are binding on, and the benefits of  
43 the development agreement inure to, the parties to the agreement and to all  
44 of their successors in interest and assigns.

45          F. Section 32-2181, subsection I does not apply to development  
46 agreements under this section.

47          G. Notwithstanding any other law, a county may provide by resolution  
48 or ordinance for public safety purposes, and with the written consent of an

owner of property that has entered into a development agreement pursuant to this section, for the application and enforcement of speed limits, vehicle weight restrictions or other safety measures on a private road that is located in any development outside the corporate boundaries of a city or town and that is open to and used by the public. The county may require payment from the property owner of the actual cost of signs for speed limits or other restrictions applicable on the private road before their installation.

Sec. 9. Section 13-1422, Arizona Revised Statutes, is amended to read:  
13-1422. Adult oriented businesses: location: hours of operation: injunction: classification: definitions

A. An adult oriented business shall not be located within one-fourth mile of a child care facility, a private, public or charter school, a public playground, a public recreational facility, a residence or a place of worship. For the purposes of this subsection, measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an adult oriented business to the nearest point on the property line of a parcel containing a child care facility, a private, public or charter school, a public playground, a public recreational facility, a residence or a place of worship. An adult oriented business lawfully operating in conformity with this section does not violate this section if a child care facility, a private, public or charter school, a public playground, a public recreational facility, a residence or a place of worship subsequently locates within one-fourth mile of the adult oriented business.

B. An adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater, adult theater, escort agency or nude model studio shall not remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on Monday through Saturday and between the hours of 1:00 a.m. and 12:00 noon on Sunday.

C. Subsection A of this section does not prohibit counties or municipalities from enacting and enforcing ordinances that regulate the location of adult oriented businesses.

D. Subsection B of this section does not prohibit counties or municipalities from enacting and enforcing ordinances that regulate an adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater, adult theater, escort agency or nude model studio in a manner that is at least as restrictive as subsection B of this section.

E. If there is reason to believe that a violation of subsection A of this section is being committed in any county or city, the county attorney of the county shall, or a citizen of this state who resides in the county or city in the citizen's own name may, maintain an action to abate and prevent the violation and to enjoin perpetually any person who is committing the violation and the owner, lessee or agent of the building or place in or on which the violation is occurring from directly or indirectly committing or permitting the violation.

F. A violation of subsection A or B of this section is a class 1 misdemeanor. Each day of violation constitutes a separate offense.

G. For the purposes of this section:

1. "Adult arcade" has the same meaning prescribed in section ~~11-821~~ 11-811.
  2. "Adult bookstore or video store" has the same meaning prescribed in section ~~11-821~~ 11-811.
  3. "Adult cabaret" excludes any establishment licensed under title 4 and includes any nightclub, bar, restaurant or other similar commercial establishment that regularly features:
    - (a) Persons who appear in a state of nudity or who are seminude.
    - (b) Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
    - (c) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.
  4. "Adult motion picture theater" has the same meaning prescribed in section ~~11-821~~ 11-811.
  5. "Adult oriented business" has the same meaning prescribed in section ~~11-821~~ 11-811.
  6. "Adult theater" has the same meaning prescribed in section ~~11-821~~ 11-811.
  7. "Escort" means a person who for consideration agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
  8. "Escort agency" means a person or business association that furnishes, offers to furnish or advertises the furnishing of escorts as one of its primary business purposes for any fee, tip or other consideration.
  9. "Nude model studio" has the same meaning prescribed in section ~~11-821~~ 11-811.
  10. "Nude", "nudity" or "state of nudity" has the same meaning prescribed in section ~~11-821~~ 11-811.
  11. "Place of worship" means a structure where persons regularly assemble for worship, ceremonies, rituals and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs or architectural or other features.
  12. "Residence" means a permanent dwelling place.
  13. "Seminude" has the same meaning prescribed in section ~~11-821~~ 11-811.
  14. "Specific anatomical areas" has the same meaning prescribed in section ~~11-821~~ 11-811.
  15. "Specific sexual activities" has the same meaning prescribed in section ~~11-821~~ 11-811.
- Sec. 10. Section 27-441, Arizona Revised Statutes, is amended to read:  
27-441. Definitions  
In this article, unless the context otherwise requires:
1. "Aggregate" means cinders, crushed rock or stone, decomposed granite, gravel, pumice, pumicite and sand.

1           2. "Aggregate mining" means clearing, covering or moving land using  
2 mechanized earth-moving equipment on privately owned property for aggregate  
3 development and production purposes, including ancillary aggregate finished  
4 product activities. Aggregate mining includes an operation that mixes or  
5 recycles rock, sand, gravel or similar aggregate materials with water and  
6 cement or with asphalt. Aggregate mining does not include surveying, seismic  
7 work, exploration or maintenance activities that create a de minimis land  
8 disturbance.

9           3. "Aggregate mining operation" or "operation" means property that is  
10 owned, operated or managed by the same person for mining aggregate and is  
11 located in an aggregate mining operations zoning district established  
12 pursuant to section ~~11-830~~ 11-812. Property that is not contiguous but is in  
13 the same zoning district, that is owned, operated or managed by the same  
14 person and that is operated as a single aggregate mining complex is  
15 considered to be a single aggregate mining operation.

16           4. "Existing aggregate mining operation" means an aggregate mining  
17 operation that was in operation on or before the date the aggregate mining  
18 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

19           5. "Major modification" means a change in an approved community notice  
20 that is one or more of the following:

21           (a) An increase of more than twenty acres from that stated in the  
22 currently approved community notice for the aggregate mining operation.

23           (b) A new and significant type of aggregate mining that has never been  
24 conducted at the aggregate mining operation site.

25           (c) Substantive changes to the provisions of an approved community  
26 notice required by section 27-442, subsection C, paragraphs 4, 6, 8, 9 and  
27 10.

28           6. "Minor modification" means a change in a community notice that is  
29 not a major modification.

30           7. "New aggregate mining operation" means an aggregate mining  
31 operation that begins operations after the date the aggregate mining  
32 operations zoning district is established pursuant to section ~~11-830~~ 11-812.

33           Sec. 11. Section 27-442, Arizona Revised Statutes, is amended to read:

34           27-442. Aggregate mining operations: community notice:  
35                                   application

36           A. An owner or operator of an aggregate mining operation shall not  
37 conduct any aggregate mining until it has an approved community notice  
38 pursuant to section 27-445, except that an owner or operator of an existing  
39 aggregate mining operation may continue the operation if a community notice  
40 is filed as provided by subsection H of this section.

41           B. An owner or operator of an aggregate mining operation shall not  
42 undertake a major modification of an approved community notice until a major  
43 modification application is approved by the state mine inspector pursuant to  
44 section 27-445.

45           C. The owner or operator of a new aggregate mining operation shall  
46 file an application for a community notice with the inspector containing:

47           1. The name and mailing address of the aggregate mining operation.

1           2. The name and mailing address of the owner or operator of the  
2 operation.

3           3. The name, mailing address and telephone number of the designated  
4 community representative or representatives for the operation.

5           4. A statement describing the mining activities to be conducted at the  
6 operation.

7           5. The amount of acreage of the operation and a map showing the  
8 location of the major process facilities.

9           6. Each type of major equipment to be used in the operation.

10          7. The approximate date when the operation will start.

11          8. A description and location of access routes to be used to and from  
12 the operation site during normal hours and nonemergency conditions.

13          9. The normal operating hours of the operation to be maintained during  
14 nonemergency conditions, unless the inspector authorizes a temporary variance  
15 from normal operating hours.

16          10. A description of measures the owner or operator will use to  
17 moderate, to the extent economically practicable at the site, any adverse  
18 physical effects on the residential property owners who are notified pursuant  
19 to section 27-444.

20          D. An owner or operator who owns or leases the land of the operation  
21 may submit a joint application for a community notice with one or more  
22 lessees or sublessees who are also operating an aggregate mining operation on  
23 the same property. A joint application for a community notice must  
24 separately list the information required pursuant to subsection C of this  
25 section by each owner or operator of an aggregate mining operation. Owners  
26 or operators of aggregate mining operations who received approval for a joint  
27 application for a community notice may also file a joint application on that  
28 approved community notice for major and minor modifications.

29          E. The owner or operator may propose a major or minor modification by  
30 filing an application with the inspector containing the text of the community  
31 notice with the proposed changes noted in the text.

32          F. Within fourteen days after receiving an application for a community  
33 notice for a new aggregate mining operation or major modification, the  
34 inspector shall notify the applicant if the community notice application  
35 contains the information required by subsection C of this section or if the  
36 major modification application is complete pursuant to subsection E of this  
37 section. If the inspector fails to notify the applicant within fourteen  
38 days, the application is considered to be complete.

39          G. The owner or operator must file an application for a minor  
40 modification to an approved community notice with the state mine  
41 inspector. Minor modifications take effect on filing, unless a later  
42 effective date is designated in the application. Applications for minor  
43 modifications are not subject to sections 27-443, 27-444 and 27-445.

44          H. For purposes of having an approved community notice, within ninety  
45 days after an aggregate mining operations zoning district is established  
46 pursuant to section ~~11-830~~ 11-812, the owner or operator of an existing  
47 aggregate mining operation must file with the state mine inspector a  
48 community notice, which is not subject to sections 27-443 and 27-444. The

1 community notice shall contain all the information required by subsection C  
2 of this section, except paragraph 7, for its aggregate mining operation.  
3 Owners or operators of existing aggregate mining operations may submit a  
4 joint application for a community notice pursuant to subsection D of this  
5 section.

6 Sec. 12. Section 27-446, Arizona Revised Statutes, is amended to read:  
7 27-446. Claims of deviation from an approved community notice

8 A. After a community notice is approved by the state mine inspector, a  
9 residential property owner who resides within one-half mile of the boundaries  
10 of the aggregate mining operation may submit a written complaint to the  
11 designated community representative that the operation has materially  
12 deviated from the approved community notice, specifying the community notice  
13 provision that is in question and the nature of the material deviation.

14 B. If the aggregate mining operation does not address the complaint to  
15 the satisfaction of the residential property owner within thirty days after  
16 receiving the complaint, the notified residential property owner may file the  
17 same complaint with the inspector with a statement that the aggregate mining  
18 operation has not addressed the complaint to the property owner's  
19 satisfaction.

20 C. In counties that have established an aggregate mining operations  
21 recommendation committee pursuant to section ~~11-830~~ 11-812, the inspector  
22 shall request the committee to hear the complaint. The committee shall  
23 advise the inspector within thirty days in writing of its findings and  
24 recommendations regarding the complaint. The inspector shall render a  
25 decision on the complaint within thirty days after receiving the committee's  
26 recommendation. The inspector shall notify, in writing, the owner or  
27 operator of the aggregate mining operation, the complainant and the committee  
28 of the decision.

29 Sec. 13. Section 27-447, Arizona Revised Statutes, is amended to read:  
30 27-447. Inspection and enforcement

31 A. The state mine inspector may enter and inspect any aggregate mining  
32 operation to determine compliance with an approved community notice.

33 B. If the inspector determines that a person is violating this  
34 article, an approved community notice or aggregate mining operations zoning  
35 district standards regulation adopted by a county and approved by the state  
36 mining inspector pursuant to section ~~11-830~~ 11-812, the inspector may issue  
37 an order requiring compliance either immediately if the violation is causing  
38 an imminent and substantial danger to the public or within a stated period of  
39 time. A compliance order must state with reasonable specificity the nature  
40 of the community notice violation, a reasonable amount of time for  
41 compliance, if applicable, and the right to a hearing. The inspector shall  
42 transmit the compliance order to the alleged violator either by certified  
43 mail, return receipt requested, or by hand delivery. At the inspector's  
44 request, the attorney general may file an action to enforce orders issued  
45 under this section after the order becomes final. The action must be filed  
46 in the superior court in the county in which the alleged violation occurred  
47 or in which the inspector maintains an office.

1 C. The inspector may suspend, withdraw or revoke a community notice  
2 approval if the inspector determines that the aggregate mining operation is  
3 in violation of an approved community notice. Any action taken under this  
4 subsection must comply with the requirements of title 41, chapter 6, article  
5 10 and section 41-1009, subsection E.

6 D. If the inspector has reason to believe that a person is violating  
7 this article or an approved community notice or aggregate mining operations  
8 zoning district standards regulation adopted by a county and approved by the  
9 inspector pursuant to section ~~11-830~~ 11-812 or that a person is causing an  
10 imminent and substantial danger to the public safety, the inspector, through  
11 the attorney general, may request a temporary restraining order, a  
12 preliminary injunction or any other relief necessary to protect the public  
13 safety without regard to whether the person has requested a hearing. An  
14 action filed pursuant to this subsection must be brought in the superior  
15 court in the county in which the alleged violation occurred or in which the  
16 inspector maintains an office.

17 Sec. 14. Section 28-6705, Arizona Revised Statutes, is amended to  
18 read:

19 28-6705. Public road and street maintenance

20 A. The board of supervisors may spend public monies for maintenance of  
21 public roads and streets other than legally designated state and county  
22 highways located without the limits of an incorporated city or town. Before  
23 spending public monies under this section, the roads or streets shall be  
24 both:

25 1. Laid out, opened and constructed without cost to the county.

26 2. Completed pursuant to a plat approved pursuant to sections 11-802  
27 and ~~11-806.01~~ 11-822 and in accordance with standard engineering road  
28 specifications adopted by the board of supervisors to ensure uniform  
29 compliance.

30 B. The board of supervisors may spend public monies for maintenance of  
31 public roads and streets laid out, constructed and opened before June 13,  
32 1975 even if the roads and streets were not constructed in accordance with  
33 subsection A of this section.

34 C. Maintenance of a public road or street does not include purchasing  
35 or laying cement. To reduce long-term maintenance costs for maintenance  
36 authorized by this section, the board of supervisors may spend monies to add  
37 rock products, gravel and processed materials to the base of the roads and  
38 streets. Petroleum based or nonpetroleum based products may be used in the  
39 maintenance and repair of unpaved roads, alleys and shoulders identified  
40 pursuant to section 9-500.04 or 49-474.01 or unpaved roads, alleys and  
41 shoulders in any county where the control officer as defined in section  
42 49-471 certifies to the board of supervisors that emissions from such roads,  
43 alleys or shoulders may endanger compliance with the national ambient air  
44 quality standard as defined in section 49-401.01.

45 Sec. 15. Section 28-6713, Arizona Revised Statutes, is amended to  
46 read:

47 28-6713. Bids for construction, reconstruction, equipment or  
48 supplies; procedure; bond; exceptions



1           A. Except as provided in subsection G of this section, in a county  
2 with a population of two hundred fifty thousand persons or more as determined  
3 by the most recent United States decennial census or the most recent special  
4 census as provided in section 28-6532, bids for all items of construction or  
5 reconstruction involving an expenditure equal to or greater than the amount  
6 determined pursuant to subsection B of this section, all purchases or other  
7 acquisition of equipment involving an expenditure of more than five thousand  
8 dollars and all purchases of supplies and materials involving an expenditure  
9 of two thousand five hundred dollars or more shall be called for by  
10 advertising in a newspaper of general circulation in the county for two  
11 consecutive publications if it is a weekly newspaper, or for two publications  
12 of at least six but not more than ten days apart if it is a daily  
13 newspaper. The advertisement shall state specifically the character of the  
14 work to be done and the kind and quality of materials or supplies to be  
15 furnished.

16           B. Bids shall be called pursuant to subsection A of this section for  
17 all items of construction or reconstruction involving an expenditure of:

- 18           1. In fiscal year 1985-1986, thirty-five thousand dollars.  
19           2. In fiscal year 1986-1987 and each fiscal year thereafter, the  
20 amount provided in paragraph 1 of this subsection adjusted by the annual  
21 percentage change in the GDP price deflator as defined in section 41-563.

22           C. If the board of supervisors receives a satisfactory bid, it shall  
23 contract with the lowest responsible bidder after the contractor or supplier  
24 gives any bond required by title 34, chapter 2, article 2, except that in  
25 counties with a population of more than one million persons according to the  
26 most recent United States decennial census, in determining the lowest  
27 responsible bidder under this section, the board may consider, for no more  
28 than five projects, the time of completion proposed by the bidder, the value  
29 over time of completed services and facilities and the value over time of  
30 interrupted services, if the board determines that this procedure will serve  
31 the public interest by providing a substantial fiscal benefit or that the use  
32 of the traditional awarding of contracts is not practicable for meeting  
33 desired construction standards or delivery schedules and if the formula for  
34 considering the time of completion is specifically stated in the bidding  
35 information. The board may reject any or all bids and readvertise.

36           D. The board of supervisors, a member of the board of supervisors or  
37 any other official or agent of a county affected by this section shall not  
38 segregate or divide into separate units a contiguous or continuous portion of  
39 highway construction or reconstruction or divide into separate portions an  
40 item of equipment or generally recognized unit of supplies or material to  
41 avoid the restrictions imposed by subsection A of this section.

42           E. The board of supervisors, a member of the board of supervisors or  
43 any other official or agent of a county affected by this section shall make  
44 every effort to combine the following:

- 45           1. Separate portions of highway construction or reconstruction  
46 projects.  
47           2. Items of equipment, supplies and materials.

1 F. After a contract has been awarded, the board of supervisors'  
2 authorized representative may authorize change orders to the contract if  
3 necessary pursuant to guidelines set by the board of supervisors. This  
4 authority does not permit the board of supervisors' authorized representative  
5 to act independently to award new contracts.

6 G. A building, structure, addition or alteration may be constructed  
7 without complying with the bidding requirements of this section if the  
8 construction, including construction of buildings or structures on public or  
9 private property, is required as a condition of development of private  
10 property and is authorized by section 9-463.01 or ~~11-806.01~~ 11-821 OR 11-822.  
11 For the purposes of this subsection, building does not include any police,  
12 fire, school, library or other public building.

13 H. Subsections A, B and C of this section do not apply to procurement  
14 of construction-manager-at-risk, design-build and job-order-contracting  
15 construction services pursuant to title 34, chapter 6.

16 Sec. 16. Section 28-8481, Arizona Revised Statutes, is amended to  
17 read:

18 28-8481. Planning and zoning; military airport and ancillary  
19 military facility's operation compatibility;  
20 compliance review; penalty; definitions

21 A. A political subdivision that has territory in the vicinity of a  
22 military airport or ancillary military facility that includes property in a  
23 high noise or accident potential zone shall adopt comprehensive and general  
24 plans and school district development plans, if applicable, for property in  
25 the high noise or accident potential zone to assure development compatible  
26 with the high noise and accident potential generated by military airport and  
27 ancillary military facility operations that have or may have an adverse  
28 effect on public health and safety. Each political subdivision, excluding  
29 school districts, shall adopt and enforce zoning regulations for property in  
30 the high noise or accident potential zone to assure development compatible  
31 with the high noise and accident potential generated by military airport and  
32 ancillary military facility operations that have or may have an adverse  
33 effect on public health and safety.

34 B. A political subdivision that has territory in the vicinity of a  
35 military airport or ancillary military facility shall incorporate sound  
36 attenuation standards pursuant to section 28-8482 into any building code in  
37 existence on or adopted after July 1, 2001 or after July 1 of the year in  
38 which the land becomes territory in the vicinity of a military airport or  
39 ancillary military facility. This section does not affect or require the  
40 modification of any building permit issued before July 1, 2001 or before July  
41 1 of the year in which the land becomes territory in the vicinity of a  
42 military airport or ancillary military facility.

43 C. A political subdivision that has territory in the vicinity of a  
44 military airport or ancillary military facility that includes property in a  
45 high noise or accident potential zone shall adopt, administer and enforce the  
46 zoning regulations or school district development plans authorized by  
47 subsection A of this section in the same manner as the comprehensive zoning  
48 ordinance or school district development plans of the political subdivision

1 as provided by law, except that a variance shall not be granted without a  
2 specific finding that the purpose of military airport or ancillary military  
3 facility compatibility is preserved.

4 D. This section does not affect the existing authority of a political  
5 subdivision to plan and zone on the basis of noise or accident potential in  
6 the vicinity of an airport owned or controlled by the political subdivision  
7 or to adopt restrictions or limitations in addition to those required by this  
8 section applicable to territory in the vicinity of a military airport or  
9 ancillary military facility.

10 E. This section does not restrict, limit or modify, or authorize or  
11 require any political subdivision to restrict, limit or modify, the right of  
12 a landowner to undertake and complete development and use of any property  
13 under the terms and conditions of a development plan or school district  
14 development plan approved on or before December 31, 2000, or on or before  
15 December 31 of the year in which the development's property becomes territory  
16 in the vicinity of a military airport or ancillary military facility or  
17 pursuant to a written determination of compatibility issued by the military  
18 airport or ancillary military facility on or before December 31, 2004, by the  
19 political subdivision in whose territory or area of jurisdiction the property  
20 is located, except that the development must comply with the sound  
21 attenuation standards and specifications incorporated into any building code  
22 adopted pursuant to section 28-8482 by the political subdivision in whose  
23 territory or area of jurisdiction the development is located.

24 F. This section does not restrict, limit or modify, or authorize or  
25 require any political subdivision to restrict, limit or modify, the right of  
26 a landowner to undertake and complete development and use of any property  
27 located in a high noise or accident potential zone that is appurtenant to an  
28 ancillary military facility under the terms and conditions of a development  
29 plan or school district development plan approved on or before December 31,  
30 2004 by the political subdivision in whose territory or area of jurisdiction  
31 the property is located or pursuant to a written determination of  
32 compatibility issued by the military airport or ancillary military facility  
33 on or before December 31, 2004, except that the development shall comply with  
34 the sound attenuation standards and specifications incorporated into any  
35 building code adopted pursuant to section 28-8482 by the political  
36 subdivision in whose territory or area of jurisdiction the development is  
37 located.

38 G. On or after July 1, 2001 or on or after December 31 of the year in  
39 which the property becomes territory in a high noise or accident potential  
40 zone, a political subdivision that has property in a high noise or accident  
41 potential zone shall notify the owner or owners of property in the high noise  
42 and accident potential zone of any additions or changes under this section to  
43 the general plan, comprehensive plan, zoning regulations or school district  
44 development plan of the political subdivision applicable to property in the  
45 high noise or accident potential zone. The political subdivision shall  
46 provide a notice of such additions or changes by publication as provided in  
47 section 9-462.04, subsection A or section 11-829, subsection C, including a  
48 statement that the property is located in a high noise or accident potential

1 zone, at least thirty days before final approval of the addition to or change  
2 in the general plan, permitted land uses, zoning regulation or school  
3 district development plan and within thirty days following the final approval  
4 of such an addition to or change in the general plan, permitted land uses,  
5 zoning regulation or school district development plan.

6 H. Any property owner described in subsection G of this section shall  
7 notify potential purchasers of the property and any potential lessees or  
8 renters that the property is located in a high noise and accident potential  
9 zone and is subject to the requirements of this section.

10 I. If a political subdivision includes property in the high noise or  
11 accident potential zone of a military airport or ancillary military facility,  
12 the political subdivision shall send notice to the attorney general of any  
13 approval, adoption or readoption of, or major amendment to, the general or  
14 comprehensive plan that impacts property in the high noise or accident  
15 potential zone of a military airport or ancillary military facility within  
16 three business days after the approval, adoption or readoption. If the  
17 attorney general determines the approval, adoption or readoption of the  
18 general or comprehensive plan or the major amendment to the general or  
19 comprehensive plan is not in compliance with subsection J of this section,  
20 the attorney general shall notify the political subdivision by certified  
21 mail, return receipt requested, of the determination of noncompliance.  
22 Within thirty days after the receipt of a determination of noncompliance by  
23 the attorney general as prescribed by this section, the governing body of the  
24 political subdivision shall reconsider any approval, adoption or readoption  
25 of, or major amendment to, the general or comprehensive plan that impacts  
26 property in the high noise or accident potential zone of a military airport  
27 or ancillary military facility. If the governing body reaffirms a prior  
28 action subject to an attorney general's determination of noncompliance  
29 pursuant to this section, the attorney general may institute a civil action  
30 pursuant to subsection L of this section. If a political subdivision timely  
31 sends notice pursuant to this subsection and the attorney general fails to  
32 timely notify the political subdivision of a determination of noncompliance,  
33 the general or comprehensive plan or major amendment to the general or  
34 comprehensive plan shall be deemed to comply with subsection J of this  
35 section.

36 J. The attorney general shall determine compliance with this section  
37 in accordance with the following requirements applicable to zoning and  
38 development in a high noise or accident potential zone and to zoning and  
39 development in accident potential zone one and accident potential zone  
40 two. Compliance with respect to territory located in the arrival and  
41 departure corridor but outside the accident potential zone one, two and noise  
42 contour lines as described in section 28-8461, paragraph 9, subdivision (c)  
43 shall be determined in accordance with the requirements applicable to  
44 territory located in the 65-69 day-night sound level as listed below.  
45 Compliance with respect to the property described in section 28-8461,  
46 paragraph 9, subdivision (b) shall be determined in accordance with the  
47 compatible land use plan in the joint land use study completed in February  
48 2004. If the political subdivision and the military airport mutually agree

1	that an individual use is compatible and consistent with the high noise or							
2	accident potential of the military airport or ancillary military facility, as							
3	applicable, the use shall be deemed to comply with this subsection.							
4	Alternatively, for an individual use or a plan for development submitted to a							
5	military airport or ancillary military facility before December 31, 2004,							
6	this subsection does not preclude the military airport from determining that							
7	the individual use or plan for development is compatible and consistent with							
8	the high noise or accident potential zone of the military airport or							
9	ancillary military facility.							
10		Day-night sound level in decibels						
11		high noise or accident						
12		potential zone (18)						
13	Zoning and development in high							
14	noise or accident potential							
15	zone	65-69	70-74	75-79	80-84	85 or	APZ	APZ
16						over	one	two
17	<u>Residential</u>							
18	Residential uses other than	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No	No
19	the residential uses							
20	listed below							
21	Single family residential	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
22	that is the subject of							
23	zoning approved on or							
24	before December 31, 2000,							
25	or on or before December 31							
26	of the year in which the							
27	property becomes territory							
28	in the vicinity of a							
29	military airport,							
30	that permits one dwelling							
31	unit per acre or less							
32	Single family residential	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
33	that is the primary residence							
34	for persons engaging in							
35	agricultural use and							
36	ancillary residential							
37	buildings incident to the							
38	primary agricultural use							
39	<u>Transportation, communications</u>							
40	<u>and utilities</u>							
41	Railroad and rapid rail transit	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(15)</sup>
42	Highway and street right-of-way	Yes	Yes	Yes	Yes	Yes	Yes	Yes
43	Motor vehicle parking	Yes	Yes	Yes	Yes	Yes	Yes <sup>(15)</sup>	Yes <sup>(15)</sup>
44	Communications	Yes	Yes <sup>(2)</sup>	Yes <sup>(3)</sup>	No	No	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>
45	(noise sensitive)							
46	Utilities	Yes	Yes	Yes	No	No	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>
47	Other transportation,	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	Yes <sup>(8)</sup>	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>
48	communications and utilities							

1	<u>Commercial/retail trade</u>							
2	Wholesale trade	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
3	Building materials-retail	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
4	General merchandise-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
5	Food-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
6	Automotive and marine	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No/Yes <sup>(17)</sup>
7	Apparel and accessories-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
8	Eating and drinking places	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
9	Furniture and home	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No/Yes <sup>(17)</sup>
10	furnishings-retail							
11	Other retail trade	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
12	<u>Personal and business services</u>							
13	Finance, insurance and real estate	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
14	Personal services	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
15	Business services	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
16	Repair services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
17	Contract construction services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
18	Indoor recreation services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
19	Other services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
20	<u>Industrial/manufacturing</u>							
21	Food and kindred products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
22	Textile mill products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
23	Apparel	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
24	Lumber and wood products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
25	Furniture and fixtures	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
26	Paper and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
27	Printing and publishing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
28	Chemicals and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
29	Petroleum refining and	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
30	related industries							
31	Rubber and miscellaneous plastic	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
32	Stone, clay and glass products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
33	Primary metal industries	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
34	Fabricated metal products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
35	Professional, scientific and	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
36	controlling instruments							
37	Miscellaneous manufacturing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
38	<u>Public and quasi-public</u>							
39	<u>services</u>							
40	Government services	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes <sup>(16)</sup>
41	Cultural activities,	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
42	including churches							
43	Medical and other health							
44	services	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
45	Cemeteries	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	Yes
46	Nonprofit organizations	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	Yes
47	Correctional facilities	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	Yes <sup>(3)</sup>	Yes <sup>(4)</sup>	No	No	Yes
48	Other public and quasi-public	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	Yes <sup>(16)</sup>

1	services							
2	<u>Outdoor recreation</u>							
3	Playgrounds and neighborhood							
4	parks	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
5	Community and regional	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
6	Nature exhibits	Yes	No	No	No	No	No	No
7	Spectator sports, including							
8	arenas	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No	No
9	Golf courses and riding stables	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	Yes <sup>(15)</sup>	Yes
10	Water based recreational areas	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
11	Resort and group camps	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
12	Auditoriums and concert halls	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	No	No
13	Outdoor amphitheaters and	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No
14	music shells							
15	Other outdoor recreation	Yes	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No
16	<u>Resource production,</u>							
17	<u>extraction and open space</u>							
18	Agriculture (except livestock)	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>
19	Livestock farming and animal	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>
20	breeding							
21	Forestry activities	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	Yes
22	Fishing activities and	Yes	Yes	No	No	No	No	No
23	related services							
24	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes <sup>(16)</sup>
25	Permanent open space	Yes	Yes	Yes	Yes	Yes	Yes	Yes
26	Water areas (not incidental to	Yes	Yes	No	No	No	No	No
27	farming)							

(1) Measures to achieve an outdoor to indoor noise reduction level of twenty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(2) Measures to achieve an outdoor to indoor noise reduction level of thirty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(3) Measures to achieve an outdoor to indoor noise reduction level of thirty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(4) Measures to achieve an outdoor to indoor noise reduction level of forty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

1           (5) Measures to achieve an outdoor to indoor noise reduction level of  
2 twenty-five decibels must be incorporated into the design and construction of  
3 portions of buildings where the public is received, office areas, noise  
4 sensitive areas or where normal noise level is low.

5           (6) Measures to achieve an outdoor to indoor noise reduction level of  
6 thirty decibels must be incorporated into the design and construction of  
7 portions of buildings where the public is received, office areas, noise  
8 sensitive areas or where normal noise level is low.

9           (7) Measures to achieve an outdoor to indoor noise reduction level of  
10 thirty-five decibels must be incorporated into the design and construction of  
11 portions of buildings where the public is received, office areas, noise  
12 sensitive areas or where normal noise level is low.

13           (8) Measures to achieve an outdoor to indoor noise reduction level of  
14 forty decibels must be incorporated into the design and construction of  
15 portions of buildings where the public is received, office areas, noise  
16 sensitive areas or where normal noise level is low.

17           (9) Measures to achieve an outdoor to indoor noise reduction level of  
18 twenty-five decibels must be incorporated into the design and construction of  
19 new residential buildings or expansions of existing residential buildings.

20           (10) Measures to achieve an outdoor to indoor noise reduction level of  
21 thirty decibels must be incorporated into the design and construction of new  
22 residential buildings or expansions of existing residential buildings.

23           (11) Measures to achieve an outdoor to indoor noise reduction level of  
24 thirty-five decibels must be incorporated into the design and construction of  
25 new residential buildings or expansions of existing residential buildings.

26           (12) Measures to achieve an outdoor to indoor noise reduction level of  
27 forty decibels must be incorporated into the design and construction of new  
28 residential buildings or expansions of existing residential buildings.

29           (13) No new residential buildings or expansions of existing residential  
30 buildings are permitted.

31           (14) Compatible if special sound reinforcement systems are installed.

32           (15) No aboveground buildings or structures.

33           (16) No new buildings or improvements or expansion of nonagriculture  
34 buildings or improvements for uses that result in the release of any  
35 substance into the air that would impair visibility or otherwise interfere  
36 with operating aircraft, such as any of the following:

37           (a) Steam, dust and smoke.

38           (b) Direct or indirect reflective light emissions.

39           (c) Electrical emissions that would interfere with aircraft and air  
40 force communications or navigational aid systems or aircraft navigational  
41 equipment.

42           (d) The attraction of birds or waterfowl such as operation of sanitary  
43 landfills or maintenance of feeding stations.

44           (e) Explosives facilities or similar activities.

45           (17) If located in the extended portion of accident potential zone two  
46 in territory of a political subdivision described in section 28-8461,  
47 paragraph 9, subdivision (a).



1           (18) Uses not listed are presumed to not be compatible. If the  
2 political subdivision and the military airport mutually agree that an  
3 individual use is compatible and consistent with the high noise or accident  
4 potential of the military airport or ancillary military facility, the use  
5 shall be presumed to be compatible.

6           K. Pursuant to subsection I of this section, the attorney general  
7 shall notify a political subdivision by certified mail, return receipt  
8 requested, if the attorney general has probable cause to believe that the  
9 political subdivision has not complied with the requirements set forth in  
10 subsection J of this section. Nothing in this section shall authorize or  
11 permit a finding of probable cause of noncompliance with respect to property  
12 that is the subject of a development plan.

13           L. The following apply to enforcement actions brought under this  
14 section:

15           1. The attorney general may institute a civil action in the name of  
16 this state in the superior court in the county of the alleged violation  
17 against a political subdivision that is required to notify the attorney  
18 general pursuant to subsection I of this section to restrain, enjoin, correct  
19 or abate a violation of this section, to collect a civil penalty ordered  
20 pursuant to this section and to collect attorney fees and costs ordered  
21 pursuant to this section if the attorney general has probable cause to  
22 believe that an action to reaffirm an approval, adoption or readoption of, or  
23 major amendment to, the general or comprehensive plan made by a political  
24 subdivision is not in compliance with subsection J of this section.

25           2. If the attorney general institutes a civil action pursuant to  
26 subsection I of this section, the civil action shall be filed within thirty  
27 days after the action to reaffirm an approval, adoption or readoption of, or  
28 major amendment to, the general plan or comprehensive plan.

29           3. The court shall award reasonable attorney fees and other costs in  
30 favor of the prevailing party for any civil enforcement action brought under  
31 this section. If the attorney general prevails, monies awarded pursuant to  
32 this paragraph shall be retained by the attorney general and are continuously  
33 appropriated.

34           4. The court may assess civil penalties in favor of this state to be  
35 deposited in the state general fund. The political subdivision may be liable  
36 for a civil penalty of up to five hundred dollars for each day for the first  
37 ten days and up to five thousand dollars for each subsequent day up to a  
38 maximum of fifty thousand dollars.

39           M. A political subdivision that has territory in the vicinity of a  
40 military airport or ancillary military facility that includes property in a  
41 high noise or accident potential zone shall submit any proposed comprehensive  
42 or general plan amendments that are applicable to property within the high  
43 noise or accident potential zone to the attorney general at least fifteen  
44 days before the first public hearing required pursuant to section 9-461.06 or  
45 ~~11-806~~ 11-805.

46           N. A political subdivision shall not permit or approve a division of  
47 land zoned for residential use that is in a high noise or accident potential  
48 zone of an ancillary military facility if the division would result in a lot,

1 parcel or fractional interest being four acres or less unless the land  
2 division is part of a development plan or a development agreement approved  
3 before July 30, 2004 or is determined by the military airport or ancillary  
4 military facility to be compatible with its operations before December 31,  
5 2004. A political subdivision may grant a waiver from this subsection.

6 O. For purposes of determining the fair market value of property  
7 located in a high noise or accident potential zone, or the development rights  
8 appurtenant to the property, for acquisition by an agency or instrumentality  
9 of the United States, this state or a political subdivision of this state,  
10 property located in a high noise or accident potential zone that is not the  
11 subject of a development plan under subsection E or F of this section shall  
12 be deemed to have zoning allowing at least one residential dwelling per acre.

13 P. For the purposes of this section:

14 1. "Development plan":

15 (a) Means a plan that is submitted to and approved by the governing  
16 body of the political subdivision pursuant to a zoning ordinance or  
17 regulation adopted pursuant to title 9, chapter 4, article 6.1 or title 11,  
18 chapter 6 and that describes with reasonable certainty the density and  
19 intensity of use for a specific parcel or parcels of property.

20 (b) Includes a planned community development plan, a planned area  
21 development plan, a planned unit development plan, a development plan that is  
22 the subject of a development agreement adopted pursuant to section 9-500.05  
23 or 11-1101, a site plan, a subdivision plat or any other land use approval  
24 designation that is the subject of a zoning ordinance adopted pursuant to  
25 title 9, chapter 4, article 6.1 or title 11, chapter 6.

26 (c) Means a conceptual plan for development that generally depicts  
27 densities on a particular property that a military airport, as described in  
28 [SECTION 28-8461](#), paragraph 9, subdivision (a), deems is compatible with the  
29 operation of the ancillary military facility.

30 2. "Major amendment" means a substantial alteration of a political  
31 subdivision's land use mixture or balance as established in the political  
32 subdivision's existing general or comprehensive plan land use element.

33 Sec. 17. Section 32-2181, Arizona Revised Statutes, is amended to  
34 read:

35 [32-2181. Notice to commissioner of intention to subdivide lands;](#)  
36 [unlawful acting in concert; exceptions; deed](#)  
37 [restrictions; definition](#)

38 A. Before offering subdivided lands for sale or lease, the subdivider  
39 shall notify the commissioner in writing of the subdivider's intention. The  
40 notice shall contain:

41 1. The name and address of the owner. If the holder of any ownership  
42 interest in the land is other than an individual, such as a corporation,  
43 partnership or trust, a statement naming the type of legal entity and listing  
44 the interest and the extent of any interest of each principal in the entity.  
45 For the purposes of this section, "principal" means any person or entity  
46 having a ten per cent or more financial interest or, if the legal entity is a  
47 trust, each beneficiary of the trust holding a ten per cent or more  
48 beneficial interest.

- 1           2. The name and address of the subdivider.
- 2           3. The legal description and area of the land.
- 3           4. A true statement of the condition of the title to the land,  
4 including all encumbrances on the land, and a statement of the provisions  
5 agreed to by the holder of any blanket encumbrance enabling a purchaser to  
6 acquire title to a lot or parcel free of the lien of the blanket encumbrance  
7 on completion of all payments and performance of all of the terms and  
8 provisions required to be made or performed by the purchaser under the real  
9 estate sales contract by which the purchaser has acquired the lot or  
10 parcel. The subdivider shall file copies of documents acceptable to the  
11 department containing these provisions with the commissioner before the sale  
12 of any subdivision lot or parcel subject to a blanket encumbrance.
- 13           5. The terms and conditions on which it is intended to dispose of the  
14 land, together with copies of any real estate sales contract, conveyance,  
15 lease, assignment or other instrument intended to be used, and any other  
16 information the owner or the owner's agent or subdivider desires to present.
- 17           6. A map of the subdivision that has been filed in the office of the  
18 county recorder in the county in which the subdivision is located.
- 19           7. A brief but comprehensive statement describing the land on and the  
20 locality in which the subdivision is located.
- 21           8. A statement of the provisions that have been made for permanent  
22 access and provisions, if any, for health department approved sewage and  
23 solid waste collection and disposal and public utilities in the proposed  
24 subdivision, including water, electricity, gas and telephone facilities.
- 25           9. A statement as to the location of the nearest public common and  
26 high schools available for the attendance of school age pupils residing on  
27 the subdivision property.
- 28           10. A statement of the use or uses for which the proposed subdivision  
29 will be offered.
- 30           11. A statement of the provisions, if any, limiting the use or  
31 occupancy of the parcels in the subdivision, together with copies of any  
32 restrictive covenants affecting all or part of the subdivision.
- 33           12. The name and business address of the principal broker selling or  
34 leasing, within this state, lots or parcels in the subdivision.
- 35           13. A true statement of the approximate amount of indebtedness that is  
36 a lien on the subdivision or any part of the subdivision and that was  
37 incurred to pay for the construction of any on-site or off-site improvement,  
38 or any community or recreational facility.
- 39           14. A true statement or reasonable estimate, if applicable, of the  
40 amount of any indebtedness that has been or is proposed to be incurred by an  
41 existing or proposed special district, entity, taxing area or assessment  
42 district, within the boundaries of which the subdivision, or any part of the  
43 subdivision, is located, and that is to pay for the construction or  
44 installation of any improvement or to furnish community or recreational  
45 facilities to the subdivision, and which amounts are to be obtained by ad  
46 valorem tax or assessment, or by a special assessment or tax upon the  
47 subdivision or any part of the subdivision.

1           15. A true statement as to the approximate amount of annual taxes,  
2 special assessments or fees to be paid by the buyer for the proposed annual  
3 maintenance of common facilities in the subdivision.

4           16. A statement of the provisions for easements for permanent access  
5 for irrigation water where applicable.

6           17. A true statement of assurances for the completion of off-site  
7 improvements, such as roads, utilities, community or recreational facilities  
8 and other improvements to be included in the offering or represented as being  
9 in the offering, and approval of the offering by the political subdivision  
10 with authority. This statement shall include a trust agreement or any other  
11 evidence of assurances for delivery of the improvements and a statement of  
12 the provisions, if any, for the continued maintenance of the improvements.

13           18. A true statement of the nature of any improvements to be installed  
14 by the subdivider, the estimated schedule for completion and the estimated  
15 costs related to the improvements that will be borne by purchasers of lots in  
16 the subdivision.

17           19. A true statement of the availability of sewage disposal facilities  
18 and other public utilities, including water, electricity, gas and telephone  
19 facilities in the subdivision, the estimated schedule for their installation,  
20 and the estimated costs related to the facilities and utilities that will be  
21 borne by purchasers of lots in the subdivision.

22           20. A true statement as to whether all or any portion of the  
23 subdivision is located in an open range or area in which livestock may roam  
24 at large under the laws of this state and what provisions, if any, have been  
25 made for the fencing of the subdivision to preclude livestock from roaming  
26 within the subdivided lands.

27           21. If the subdivider is a subsidiary corporation, a true statement  
28 identifying the parent corporation and any of the following in which the  
29 parent or any of its subsidiaries is or has been involved within the past  
30 five years:

31           (a) Any subdivision in this state.

32           (b) Any subdivision, wherever located, for which registration is  
33 required pursuant to the federal interstate land sales full disclosure act.

34           (c) Any subdivision, wherever located, for which registration would  
35 have been required pursuant to the federal interstate land sales full  
36 disclosure act but for the exemption for subdivisions whose lots are all  
37 twenty acres or more in size.

38           22. A true statement identifying all other subdivisions, designated in  
39 paragraph 21 of this subsection, in which any of the following is or, within  
40 the last five years, has been directly or indirectly involved:

41           (a) The holder of any ownership interest in the land.

42           (b) The subdivider.

43           (c) Any principal or officer in the holder or subdivider.

44           23. A true statement as to whether all or any portion of the  
45 subdivision is located in territory in the vicinity of a military airport or  
46 ancillary military facility as defined in section 28-8461, in territory in  
47 the vicinity of a public airport as defined in section 28-8486, on or after  
48 July 1, 2001, in a high noise or accident potential zone as defined in

1 section 28-8461 or on or after July 1 of the year in which the subdivision  
2 becomes located in a high noise or accident potential zone. The statement  
3 required pursuant to this paragraph does not require the amendment or  
4 refile of any notice filed before July 1, 2001 or before July 1 of the year  
5 in which the subdivision becomes located in a high noise or accident  
6 potential zone.

7 24. If the subdivision is a conversion from multifamily rental to  
8 condominiums as defined in section 33-1202, a true statement as to the  
9 following:

10 (a) That the property is a conversion from multifamily rental to  
11 condominiums.

12 (b) The date original construction was completed.

13 25. Other information and documents and certifications as the  
14 commissioner may reasonably require provided that the subdivider shall not be  
15 required to disclose any critical infrastructure information as defined in  
16 section 41-1801 or any information contained in a report issued pursuant to  
17 section 41-4273.

18 B. The commissioner, on application, may grant a subdivider of lots or  
19 parcels within a subdivision for which a public report was previously issued  
20 by the commissioner an exemption from all or part of the notification  
21 requirements of subsection A of this section. The subdivider shall file a  
22 statement with the commissioner indicating the change of ownership in the  
23 lots or parcels together with any material changes occurring subsequent to  
24 the original approval of the subdivision within which the lots or parcels are  
25 located. The statement shall further refer to the original approval by the  
26 commissioner.

27 C. If the subdivision is within an active management area, as defined  
28 in section 45-402, the subdivider shall accompany the notice with a  
29 certificate of assured water supply issued by the director of water resources  
30 along with proof that all applicable fees have been paid pursuant to sections  
31 48-3772 and 48-3774.01, unless the subdivider has obtained a written  
32 commitment of water service for the subdivision from a city, town or private  
33 water company designated as having an assured water supply by the director of  
34 water resources pursuant to section 45-576 or is exempt from the requirement  
35 pursuant to section 45-576. If the subdivider has submitted a certificate of  
36 assured water supply to a city, town or county prior to approval of the plat  
37 by the city, town or county and this has been noted on the face of the plat,  
38 the submission constitutes compliance with this subsection if the subdivider  
39 provides proof to the commissioner that all applicable fees have been paid  
40 pursuant to sections 48-3772 and 48-3774.01.

41 D. It is unlawful for a person or group of persons acting in concert  
42 to attempt to avoid this article by acting in concert to divide a parcel of  
43 land or sell subdivision lots by using a series of owners or conveyances or  
44 by any other method that ultimately results in the division of the lands into  
45 a subdivision or the sale of subdivided land. The plan or offering is  
46 subject to this article. Unlawful acting in concert pursuant to this  
47 subsection with respect to the sale or lease of subdivision lots requires  
48 proof that the real estate licensee or other licensed professional knew or

1 with the exercise of reasonable diligence should have known that property  
2 which the licensee listed or for which the licensee acted in any capacity as  
3 agent was subdivided land subject to this article.

4 E. A creation of six or more lots, parcels or fractional interests in  
5 improved or unimproved land, lots or parcels of any size is subject to this  
6 article except when:

7 1. Each of the lots, parcels or fractional interests represents, on a  
8 partition basis, thirty-six acres or more in area of land located in this  
9 state, including to the centerline of dedicated roads or easements, if any,  
10 contiguous to the land in which the interests are held.

11 2. The lots, parcels or fractional interests are the result of a  
12 foreclosure sale, the exercise by a trustee under a deed of trust of a power  
13 of sale or the grant of a deed in lieu of foreclosure. This paragraph does  
14 not allow circumvention of the requirements of this article.

15 3. The lots, parcels or fractional interests are created by a valid  
16 order or decree of a court pursuant to and through compliance with title 12,  
17 chapter 8, article 7 or by operation of law. This paragraph does not allow  
18 circumvention of the requirements of this article.

19 4. The lots, parcels or fractional interests consist of interests in  
20 any oil, gas or mineral lease, permit, claim or right therein and such  
21 interests are regulated as securities by the United States or by this state.

22 5. The lots, parcels or fractional interests are registered as  
23 securities under the laws of the United States or the laws of this state or  
24 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

25 6. The commissioner by special order exempts offerings or dispositions  
26 of any lots, parcels or fractional interests from compliance with this  
27 article on written petition and on a showing satisfactory to the commissioner  
28 that compliance is not essential to the public interest or for the protection  
29 of buyers.

30 F. In areas outside of active management areas established pursuant to  
31 title 45, chapter 2, article 2:

32 1. If the subdivision is located in a county that has adopted the  
33 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A,  
34 or in a city or town that has enacted an ordinance pursuant to section  
35 9-463.01, subsection 0, the subdivider shall accompany the notice with a  
36 report issued by the director of water resources pursuant to section 45-108  
37 stating that the subdivision has an adequate water supply, unless one of the  
38 following applies:

39 (a) The subdivider submitted the report to a city, town or county  
40 before approval of the plat by the city, town or county and this has been  
41 noted on the face of the plat.

42 (b) The subdivider has obtained a written commitment of water service  
43 for the subdivision from a city, town or private water company designated as  
44 having an adequate water supply by the director of water resources pursuant  
45 to section 45-108.

46 (c) The plat was approved pursuant to an exemption authorized by  
47 section 9-463.01, subsection K, pursuant to an exemption authorized by  
48 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant

1 to an exemption granted by the director of water resources under section  
2 45-108.02 and the exemption has not expired or pursuant to an exemption  
3 granted by the director under section 45-108.03. If the plat was approved  
4 pursuant to an authorized exemption, the state real estate commissioner shall  
5 require that all promotional material and contracts for the sale of lots in  
6 the subdivision adequately display the following:

7 (i) The director of water resources' report or the developer's brief  
8 summary of the report as approved by the commissioner on the proposed water  
9 supply for the subdivision.

10 (ii) A statement describing the exemption under which the subdivision  
11 was approved, including the specific conditions of the exemption that were  
12 met. If the plat was approved by the legislative body of a city or town  
13 pursuant to an exemption authorized by section 9-463.01, subsection K or by  
14 the board of supervisors of a county pursuant to an exemption authorized by  
15 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, the  
16 subdivider shall record the document required by section 33-406.

17 (d) The subdivision received final plat approval from the city, town  
18 or county before the requirement for an adequate water supply became  
19 effective in the city, town or county, and there have been no material  
20 changes to the plat since the final plat approval. If changes were made to  
21 the plat after the final plat approval, the director of water resources shall  
22 determine whether the changes are material pursuant to the rules adopted by  
23 the director to implement section 45-108. If this subdivision applies, the  
24 state real estate commissioner shall require that all promotional materials  
25 and contracts for the sale of lots in the subdivision adequately display the  
26 director of water resources' report or the developer's brief summary of the  
27 report as approved by the commissioner on the proposed water supply for the  
28 subdivision.

29 2. If the subdivision is not located in a county that has adopted the  
30 provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A  
31 or in a city or town that has enacted an ordinance pursuant to section  
32 9-463.01, subsection O, and if the director of water resources, pursuant to  
33 section 45-108, reports an inadequate on-site supply of water to meet the  
34 needs projected by the developer or if no water is available, the state real  
35 estate commissioner shall require that all promotional material and contracts  
36 for the sale of lots in subdivisions approved by the commissioner adequately  
37 display the director of water resources' report or the developer's brief  
38 summary of the report as approved by the commissioner on the proposed water  
39 supply for the subdivision.

40 G. The commissioner may require the subdivider to supplement the  
41 notice of intention to subdivide lands and may require the filing of periodic  
42 reports to update the information contained in the original notice of  
43 intention to subdivide lands.

44 H. The commissioner may authorize the subdivider to file as the notice  
45 of intention to subdivide lands, in lieu of some or all of the requirements  
46 of subsection A of this section, a copy of the statement of record filed with  
47 respect to the subdivision pursuant to the federal interstate land sales full

1 disclosure act if the statement complies with the requirements of the act and  
2 the regulations pertinent to the act.

3 I. Neither a real estate sales contract, conveyance, lease, assignment  
4 or other instrument to transfer any interest in subdivided land nor any  
5 covenant or restriction affecting real property shall contain any provision  
6 limiting the right of any party to appear or testify in support of or  
7 opposition to zoning changes, building permits or any other official acts  
8 affecting real property before a governmental body or official considering  
9 zoning changes, building permits or any other official acts affecting real  
10 property, whether the property is located within or outside of the boundaries  
11 of the subdivision. All contractual provisions that conflict with this  
12 subsection are declared to be contrary to public policy. Nothing contained  
13 in this subsection shall prohibit private restrictions on the use of any real  
14 property.

15 J. Before offering subdivided lands for lease or sale, the subdivider  
16 who makes any promises through any form of advertising media that the  
17 subdivided lands will be exclusively a retirement community or one that is  
18 limited to the residency of adults or senior citizens shall include the  
19 promises in the deed restrictions affecting any interest in real property  
20 within the subdivided lands.

21 Sec. 18. Section 32-2183, Arizona Revised Statutes, is amended to  
22 read:

23 32-2183. Subdivision public reports; denial of issuance;  
24 unlawful sales; voidable sale or lease; order  
25 prohibiting sale or lease; investigations; hearings;  
26 summary orders

27 A. Upon examination of a subdivision, the commissioner, unless there  
28 are grounds for denial, shall issue to the subdivider a public report  
29 authorizing the sale or lease in this state of the lots, parcels or  
30 fractional interests within the subdivision. The report shall contain the  
31 data obtained in accordance with section 32-2181 and any other information  
32 which the commissioner determines is necessary to implement the purposes of  
33 this article. If any of the lots, parcels or fractional interests within the  
34 subdivision are located within territory in the vicinity of a military  
35 airport or ancillary military facility as defined in section 28-8461, under a  
36 military training route as delineated in the military training route map  
37 prepared pursuant to section 37-102, under restricted air space as delineated  
38 in the restricted air space map prepared pursuant to section 37-102 or  
39 contained in the military electronics range as delineated in the military  
40 electronics range map prepared pursuant to section 37-102, the report shall  
41 include, in bold twelve point font block letters on the first page of the  
42 report, the statements required pursuant to section 28-8484, subsection A,  
43 section 32-2183.05 or section 32-2183.06 and, if the department has been  
44 provided a map prepared pursuant to section 28-8484, subsection B or section  
45 37-102, the report shall include a copy of the map. The military airport  
46 report requirements do not require the amendment or reissuance of any public  
47 report issued on or before December 31, 2001 or on or before December 31 of  
48 the year in which the lots, parcels or fractional interests within a



1 subdivision become territory in the vicinity of a military airport or  
2 ancillary military facility. The military training route report requirements  
3 do not require the amendment or reissuance of any public report issued on or  
4 before December 31, 2004. The restricted air space report requirements do  
5 not require the amendment or reissuance of any public report issued on or  
6 before December 31, 2006. The military electronics range report requirements  
7 do not require the amendment or reissuance of any public report issued on or  
8 before December 31, 2008. The commissioner shall require the subdivider to  
9 reproduce the report, make the report available to each prospective customer  
10 and furnish each buyer or lessee with a copy before the buyer or lessee signs  
11 any offer to purchase or lease, taking a receipt therefor.

12 B. This section shall not be construed to require a public report  
13 issued sixty or fewer days prior to the filing of the military electronics  
14 range map prepared pursuant to section 37-102 to meet the military  
15 electronics range notification requirements of this section.

16 C. A public report issued sixty-one or more days after the filing of  
17 the military electronics range map prepared pursuant to section 37-102 shall  
18 meet all of the requirements of subsection A of this section.

19 D. Notwithstanding subsection A of this section, a subdivider may  
20 elect to prepare a final public report for use in the sale of improved lots  
21 as defined in section 32-2101, as follows:

22 1. The subdivider shall prepare the public report and provide a copy  
23 of the report to the commissioner with the submission of the notification  
24 required by sections 32-2181 and 32-2184 and shall comply with all other  
25 requirements of this article.

26 2. An initial filing fee of five hundred dollars or an amended filing  
27 fee of two hundred fifty dollars shall accompany the notification required by  
28 paragraph 1 of this subsection.

29 3. The department shall assign a registration number to each  
30 notification and public report submitted pursuant to this subsection and  
31 shall maintain a database of all of these submissions. The subdivider shall  
32 place the number on each public report.

33 4. The department shall determine within fifteen business days after  
34 the receipt of the notification and public report whether the notification  
35 and public report are administratively complete. The commissioner either may  
36 issue a certification that the notification and public report are  
37 administratively complete or may deny issuance of the certification if it  
38 appears that the application or project is not in compliance with all legal  
39 requirements, that the applicant has a background of violations of state or  
40 federal law or that the applicant or project presents an unnecessary risk of  
41 harm to the public.

42 5. A subdivider may commence sales or leasing activities as permitted  
43 under this article after obtaining a certificate of administrative  
44 completeness from the commissioner.

45 6. Before or after the commissioner issues a certificate of  
46 administrative completeness, the department may examine any public report,  
47 subdivision or applicant that has applied for or received the certificate.  
48 If the commissioner determines that the subdivider or subdivision is not in

1 compliance with any requirement of state law or that grounds exist under this  
2 chapter to suspend, deny or revoke a public report, the commissioner may  
3 commence an administrative action under section 32-2154 or 32-2157. If the  
4 subdivider immediately corrects the deficiency and comes into full compliance  
5 with state law, the commissioner shall vacate any action that the  
6 commissioner may have commenced pursuant to section 32-2154 or 32-2157.

7 7. The department shall provide forms and guidelines for the  
8 submission of the notification and public report pursuant to this section.

9 E. The commissioner may suspend, revoke or deny issuance of a public  
10 report on any of the following grounds:

11 1. Failure to comply with this article or the rules of the  
12 commissioner pertaining to this article.

13 2. The sale or lease would constitute misrepresentation to or deceit  
14 or fraud of the purchasers or lessees.

15 3. Inability to deliver title or other interest contracted for.

16 4. Inability to demonstrate that adequate financial or other  
17 arrangements acceptable to the commissioner have been made for completion of  
18 all streets, sewers, electric, gas and water utilities, drainage and flood  
19 control facilities, community and recreational facilities and other  
20 improvements included in the offering.

21 5. Failure to make a showing that the lots, parcels or fractional  
22 interests can be used for the purpose for which they are offered.

23 6. The owner, agent, subdivider, officer, director or partner,  
24 subdivider trust beneficiary holding ten per cent or more direct or indirect  
25 beneficial interest or, if a corporation, any stockholder owning ten per cent  
26 or more of the stock in the corporation has:

27 (a) Been convicted of a felony or misdemeanor involving fraud or  
28 dishonesty or involving conduct of any business or a transaction in real  
29 estate, cemetery property, time-share intervals or membership camping  
30 campgrounds or contracts.

31 (b) Been permanently or temporarily enjoined by order, judgment or  
32 decree from engaging in or continuing any conduct or practice in connection  
33 with the sale or purchase of real estate or cemetery property, time-share  
34 intervals, membership camping contracts or campgrounds, or securities or  
35 involving consumer fraud or the racketeering laws of this state.

36 (c) Had an administrative order entered against him by a real estate  
37 regulatory agency or security regulatory agency.

38 (d) Had an adverse decision or judgment entered against him involving  
39 fraud or dishonesty or involving the conduct of any business or transaction  
40 in real estate, cemetery property, time-share intervals or membership camping  
41 campgrounds or contracts.

42 (e) Disregarded or violated this chapter or the rules of the  
43 commissioner pertaining to this chapter.

44 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)  
45 applies.

46 7. Procurement or an attempt to procure a public report by fraud,  
47 misrepresentation or deceit or by filing an application for a public report  
48 that is materially false or misleading.

1           8. Failure of the declaration for a condominium created pursuant to  
2 title 33, chapter 9, article 2 to comply with the requirements of section  
3 33-1215 or failure of the plat for the condominium to comply with the  
4 requirements of section 33-1219. The commissioner may require an applicant  
5 for a public report to submit a notarized statement signed by the subdivider  
6 or an engineer or attorney licensed to practice in this state certifying that  
7 the condominium plat and declaration of condominium are in compliance with  
8 the requirements of sections 33-1215 and 33-1219. If the notarized statement  
9 is provided, the commissioner is entitled to rely on this statement.

10           9. Failure of any blanket encumbrance or valid supplementary agreement  
11 executed by the holder of the blanket encumbrance to contain provisions that  
12 enable the purchaser to acquire title to a lot or parcel free of the lien of  
13 the blanket encumbrance, on completion of all payments and performance of all  
14 of the terms and provisions required to be made or performed by the purchaser  
15 under the real estate sales contract by which the purchaser has acquired the  
16 lot or parcel. The subdivider shall file copies of documents acceptable to  
17 the commissioner containing these provisions with the commissioner before the  
18 sale of any subdivision lot or parcel subject to a blanket encumbrance.

19           10. Failure to demonstrate permanent access to the subdivision lots or  
20 parcels.

21           11. The use of the lots presents an unreasonable health risk.

22           F. It is unlawful for a subdivider to sell any lot in a subdivision  
23 unless one of the following occurs:

24           1. All proposed or promised subdivision improvements are completed.

25           2. The completion of all proposed or promised subdivision improvements  
26 is assured by financial arrangements acceptable to the commissioner. The  
27 financial arrangements may be made in phases for common community and  
28 recreation facilities required by a municipality or county as a stipulation  
29 for approval of a plan for a master planned community.

30           3. The municipal or county government agrees to prohibit occupancy and  
31 the subdivider agrees not to close escrow for lots in the subdivision until  
32 all proposed or promised subdivision improvements are completed.

33           4. The municipal or county government enters into an assurance  
34 agreement with any trustee not to convey lots until improvements are  
35 completed within the portion of the subdivision containing these lots, if the  
36 improvements can be used and maintained separately from the improvements  
37 required for the entire subdivision plat. The agreement shall be recorded in  
38 the county in which the subdivision is located.

39           G. If the subdivision is within an active management area, as defined  
40 in section 45-402, the commissioner shall deny issuance of a public report or  
41 the use of any exemption pursuant to section 32-2181.02, subsection B unless  
42 the subdivider has been issued a certificate of assured water supply by the  
43 director of water resources and has paid all applicable fees pursuant to  
44 sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a  
45 written commitment of water service for the subdivision from a city, town or  
46 private water company designated as having an assured water supply by the  
47 director of water resources pursuant to section 45-576 or is exempt from the  
48 requirement pursuant to section 45-576.

1           H. In areas outside of active management areas, if the subdivision is  
2 located in a county that has adopted the provision authorized by section  
3 ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town that has  
4 enacted an ordinance pursuant to section 9-463.01, subsection O, the  
5 commissioner shall deny issuance of a public report or the use of any  
6 exemption pursuant to section 32-2181.02, subsection B unless one of the  
7 following applies:

8           1. The director of water resources has reported pursuant to section  
9 45-108 that the subdivision has an adequate water supply.

10           2. The subdivider has obtained a written commitment of water service  
11 for the subdivision from a city, town or private water company designated as  
12 having an adequate water supply by the director of water resources pursuant  
13 to section 45-108.

14           3. The plat was approved pursuant to an exemption authorized by  
15 section 9-463.01, subsection K, pursuant to an exemption authorized by  
16 section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant  
17 to an exemption granted by the director of water resources under section  
18 45-108.02 and the exemption has not expired or pursuant to an exemption  
19 granted by the director of water resources under section 45-108.03.

20           4. The subdivision received final plat approval from the city, town or  
21 county before the requirement for an adequate water supply became effective  
22 in the city, town or county, and there have been no material changes to the  
23 plat since the final plat approval. If changes were made to the plat after  
24 the final plat approval, the director of water resources shall determine  
25 whether the changes are material pursuant to the rules adopted by the  
26 director to implement section 45-108.

27           I. A subdivider shall not sell or lease or offer for sale or lease in  
28 this state any lots, parcels or fractional interests in a subdivision without  
29 first obtaining a public report from the commissioner except as provided in  
30 section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of  
31 subdivided lands prior to issuance of the public report or failure to deliver  
32 the public report to the purchaser or lessee shall render the sale or lease  
33 rescindable by the purchaser or lessee. An action by the purchaser or lessee  
34 to rescind the transaction shall be brought within three years of the date of  
35 execution of the purchase or lease agreement by the purchaser or lessee. In  
36 any rescission action, the prevailing party is entitled to reasonable  
37 attorney fees as determined by the court.

38           J. Any applicant objecting to the denial of a public report, within  
39 thirty days after receipt of the order of denial, may file a written request  
40 for a hearing. The commissioner shall hold the hearing within twenty days  
41 after receipt of the request for a hearing unless the party requesting the  
42 hearing has requested a postponement. If the hearing is not held within  
43 twenty days after a request for a hearing is received, plus the period of any  
44 postponement, or if a proposed decision is not rendered within forty-five  
45 days after submission, the order of denial shall be rescinded and a public  
46 report issued.

47           K. On the commissioner's own motion, or when the commissioner has  
48 received a complaint and has satisfactory evidence that the subdivider or the

1 subdivider's agent is violating this article or the rules of the commissioner  
2 or has engaged in any unlawful practice as defined in section 44-1522 with  
3 respect to the sale of subdivided lands or deviated from the provisions of  
4 the public report, the commissioner may investigate the subdivision project  
5 and examine the books and records of the subdivider. For the purpose of  
6 examination, the subdivider shall keep and maintain records of all sales  
7 transactions and funds received by the subdivider pursuant to the sales  
8 transactions and shall make them accessible to the commissioner upon  
9 reasonable notice and demand.

10 L. On the commissioner's own motion, or when the commissioner has  
11 received a complaint and has satisfactory evidence that any person has  
12 violated this article or the rules of the commissioner or has engaged in any  
13 unlawful practice as defined in section 44-1522 with respect to the sale of  
14 subdivided lands or deviated from the provisions of the public report or  
15 special order of exemption, or has been indicted for fraud or against whom an  
16 information for fraud has been filed or has been convicted of a felony,  
17 before or after the commissioner issues the public report as provided in  
18 subsection A of this section, the commissioner may conduct an investigation  
19 of the matter, issue a summary order as provided in section 32-2157, or hold  
20 a public hearing and, after the hearing, may issue the order or orders the  
21 commissioner deems necessary to protect the public interest and ensure  
22 compliance with the law, rules or public report or the commissioner may bring  
23 action in any court of competent jurisdiction against the person to enjoin  
24 the person from continuing the violation or engaging in or doing any act or  
25 acts in furtherance of the violation. The court may make orders or  
26 judgments, including the appointment of a receiver, necessary to prevent the  
27 use or employment by a person of any unlawful practices, or which may be  
28 necessary to restore to any person in interest any monies or property, real  
29 or personal, that may have been acquired by means of any practice in this  
30 article declared to be unlawful.

31 M. When it appears to the commissioner that a person has engaged in or  
32 is engaging in a practice declared to be unlawful by this article and that  
33 the person is concealing assets or self or has made arrangements to conceal  
34 assets or is about to leave the state, the commissioner may apply to the  
35 superior court, ex parte, for an order appointing a receiver of the assets of  
36 the person or for a writ of ne exeat, or both.

37 N. The court, on receipt of an application for the appointment of a  
38 receiver or for a writ of ne exeat, or both, shall examine the verified  
39 application of the commissioner and other evidence that the commissioner may  
40 present the court. If satisfied that the interests of the public require the  
41 appointment of a receiver or the issuance of a writ of ne exeat without  
42 notice, the court shall issue an order appointing the receiver or issue the  
43 writ, or both. If the court determines that the interests of the public will  
44 not be harmed by the giving of notice, the court shall set a time for a  
45 hearing and require notice be given as the court deems satisfactory.

46 O. If the court appoints a receiver without notice, the court shall  
47 further direct that a copy of the order appointing a receiver be served on  
48 the person engaged in or engaging in a practice declared to be unlawful under

1 this article by delivering the order to the last address of the person that  
2 is on file with the state real estate department. The order shall inform the  
3 person that the person has the right to request a hearing within ten days of  
4 the date of the order and, if requested, the hearing shall be held within  
5 thirty days from the date of the order.

6 Sec. 19. Section 32-2197.08, Arizona Revised Statutes, is amended to  
7 read:

8 32-2197.08. Issuance of public report by commissioner on  
9 timeshare plan; denial of issuance; additional  
10 information; use of another state's public  
11 report

12 A. On examination of a timeshare plan, the commissioner, unless there  
13 are grounds for denial, shall approve for use by the developer a public  
14 report authorizing the sale or lease of the timeshare interests within the  
15 timeshare plan. For all timeshare interests sold in this state, the  
16 commissioner shall require the developer to reproduce the public report and  
17 furnish each prospective customer with a copy, taking a receipt for each  
18 copy. The public report shall be made available to each prospective  
19 purchaser in written format and may also be made available in CD-ROM or other  
20 electronic format as approved by the commissioner. The public report shall  
21 include the following:

22 1. The name and principal address of the owner and developer.  
23 2. A description of the type of timeshare interests being offered.  
24 3. A description of the existing and proposed accommodations and  
25 amenities of the timeshare plan, including type and number, any use  
26 restrictions and any required fees for use.

27 4. A description of any accommodations and amenities that are  
28 committed to be built, including:

29 (a) The developer's schedule of commencement and completion of all  
30 accommodations and amenities.

31 (b) The estimated number of accommodations per site that may become  
32 subject to the timeshare plan.

33 5. A brief description of the duration, phases and operation of the  
34 timeshare plan.

35 6. The current annual budget if available or the projected annual  
36 budget for the timeshare plan. The budget shall include:

37 (a) A statement of the amount or a statement that there is no amount  
38 included in the budget as a reserve for repairs and replacement.

39 (b) The projected common expense liability, if any, by category of  
40 expenditures for the timeshare plan.

41 (c) A statement of any services or expenses that are not reflected in  
42 the budget and that the developer provides or pays.

43 7. A description of any liens, defects or encumbrances on or affecting  
44 the title to the timeshare interests.

45 8. A statement that by midnight of the seventh calendar day after  
46 execution of the purchase agreement a purchaser may cancel any purchase  
47 agreement for a timeshare interest from a developer together with a statement  
48 providing the name and street address where the purchaser should mail any

1 notice of cancellation. However, if, by agreement of the parties through the  
2 purchase agreement, the purchase agreement allows for cancellation of the  
3 purchase agreement for a period of time exceeding seven calendar days, the  
4 public report shall include a statement that the cancellation of the purchase  
5 agreement is allowed for that period of time exceeding seven calendar days.

6 9. A description of any bankruptcies, pending suits, adjudications or  
7 disciplinary actions material to the timeshare interests of which the  
8 developer has knowledge.

9 10. Any restrictions on alienation of any number or portion of any  
10 timeshare interests.

11 11. Any current or expected fees or charges to be paid by timeshare  
12 purchasers for the use of any amenities related to the timeshare plan.

13 12. The extent to which financial arrangements have been provided for  
14 completion of all promised improvements.

15 13. If the timeshare plan provides purchasers with the opportunity to  
16 participate in any exchange programs, a description of the name and address  
17 of the exchange companies and the method by which a purchaser accesses the  
18 exchange programs.

19 14. Any other information that the developer, with the approval of the  
20 commissioner, desires to include in the public report.

21 15. If the developer is offering a multisite timeshare plan, the  
22 following information, which may be disclosed in a written, graphic or  
23 tabular form:

24 (a) A description of each component site, including the name and  
25 address of each component site.

26 (b) The number of accommodations and timeshare periods, expressed in  
27 periods of use availability, committed to the multisite timeshare plan and  
28 available for use by purchasers.

29 (c) Each type of accommodation in terms of the number of bedrooms,  
30 bathrooms and sleeping capacity and a statement of whether or not the  
31 accommodation contains a full kitchen. For the purposes of this subdivision,  
32 "full kitchen" means a kitchen having a minimum of a dishwasher, range, oven,  
33 sink and refrigerator.

34 (d) A description of amenities available for use by the purchaser at  
35 each component site.

36 (e) A description of the reservation system, including the following:

37 (i) The entity responsible for operating the reservation system.

38 (ii) A summary of the rules governing access to and use of the  
39 reservation system.

40 (iii) The existence of and an explanation regarding any priority  
41 reservation features that affect a purchaser's ability to make reservations  
42 for the use of a given accommodation on a first reserved, first served basis.

43 (f) A description of any right to make any additions, substitutions or  
44 deletions of accommodations or amenities and a description of the basis on  
45 which accommodations and amenities may be added to, substituted in or deleted  
46 from the multisite timeshare plan.

47 (g) A description of the purchaser's liability for any fees associated  
48 with the multisite timeshare plan.

1           (h) The location and the anticipated relative use demand of each  
2 component site in a multisite timeshare plan as well as any periodic  
3 adjustment or amendment to the reservation system that may be needed in order  
4 to respond to actual purchaser use patterns and changes in purchaser use  
5 demand for the accommodations existing at the time within the multisite  
6 timeshare plan.

7           (i) Any other information reasonably required by the commissioner or  
8 established by rule necessary for the protection of purchasers of timeshare  
9 interests in timeshare plans.

10          (j) Any other information that the developer, with the approval of the  
11 commissioner, desires to include in the public report.

12          16. If a developer offers a nonspecific timeshare interest in a  
13 multisite timeshare plan, the information set forth in paragraphs 1 through  
14 14 of this subsection as to each component site.

15          17. Any other information that the commissioner determines or  
16 establishes by rule is necessary to implement the purpose of this article.

17          B. In the event of denial, suspension or revocation, grounds shall be  
18 set forth in writing at the time of denial, suspension or revocation. The  
19 commissioner may deny, suspend or revoke the public report on any of the  
20 following grounds:

21           1. Failure to comply with this article or the rules of the  
22 commissioner pertaining to this article.

23           2. The sale or lease would constitute misrepresentation to or deceit  
24 or fraud of the purchasers or lessees.

25           3. Inability to demonstrate that adequate financial or other  
26 arrangements acceptable to the commissioner have been made for completion of  
27 the timeshare property, installation of all streets, sewers, electric, gas  
28 and water utilities, drainage, flood control and other similar improvements  
29 included in the offering.

30           4. The developer, including if an entity, an officer, director,  
31 member, manager, partner, owner, trust beneficiary holding ten per cent or  
32 more beneficial interest, stockholder owning ten per cent or more of the  
33 stock or other person exercising control of the entity, has:

34           (a) Been convicted of a felony or misdemeanor involving theft, fraud  
35 or dishonesty or involving the conduct of any business or a transaction in  
36 real estate, cemetery property, timeshare interests or membership camping  
37 campgrounds or contracts.

38           (b) Been permanently or temporarily enjoined by order, judgment or  
39 decree from engaging in or continuing any conduct or practice in connection  
40 with the sale or purchase of real estate, cemetery property, timeshare  
41 interests, membership camping campgrounds or contracts, or securities or  
42 involving consumer fraud or the Arizona racketeering laws.

43           (c) Had an administrative order entered against him by a real estate  
44 regulatory agency or securities regulatory agency.

45           (d) Had an adverse decision or judgment entered against him involving  
46 fraud or dishonesty or involving the conduct of any business in or a  
47 transaction in real estate, cemetery property, timeshare interests or  
48 membership camping campgrounds or contracts.



1 (e) Disregarded or violated this chapter or the rules of the  
2 commissioner pertaining to this chapter.

3 (f) Participated in, operated or held an interest in any entity to  
4 which subdivision (b), (c), (d), or (e) of this paragraph applies.

5 5. If within this state, the timeshare property is incompatible with  
6 the existing neighborhood and would introduce into a neighborhood a character  
7 of property or use that would clearly be detrimental to property values in  
8 that neighborhood.

9 C. If the timeshare property is within an active management area, as  
10 defined in section 45-402, the commissioner shall deny issuance of a public  
11 report unless the developer has been issued a certificate of assured water  
12 supply by the director of water resources and has paid all applicable fees  
13 pursuant to sections 48-3772 and 48-3774.01, or unless the developer has  
14 obtained a written commitment of water service for the timeshare property  
15 from a city, town or private water company designated as having an assured  
16 water supply by the director of water resources pursuant to section 45-576.

17 D. In areas outside of active management areas, if the timeshare  
18 property is located in a county that has adopted the provision authorized by  
19 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town  
20 that has enacted an ordinance pursuant to section 9-463.01, subsection 0, the  
21 commissioner shall deny issuance of a public report unless one of the  
22 following applies:

23 1. The director of water resources has reported pursuant to section  
24 45-108 that the timeshare property has an adequate water supply.

25 2. The developer has obtained a written commitment of water service  
26 for the timeshare property from a city, town or private water company  
27 designated as having an adequate water supply by the director of water  
28 resources pursuant to section 45-108.

29 3. The timeshare property was approved pursuant to an exemption  
30 authorized by section 9-463.01, subsection K, pursuant to an exemption  
31 authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph  
32 1, pursuant to an exemption granted by the director of water resources under  
33 section 45-108.02 and the exemption has not expired or pursuant to an  
34 exemption granted by the director of water resources under section 45-108.03.

35 4. The subdivision received final plat approval from the city, town or  
36 county before the requirement for an adequate water supply became effective  
37 in the city, town or county, and there have been no material changes to the  
38 plat since the final plat approval. If changes were made to the plat after  
39 the final plat approval, the director of water resources shall determine  
40 whether the changes are material pursuant to the rules adopted by the  
41 director to implement section 45-108.

42 E. In addition to providing to each prospective customer a copy of the  
43 public report as required in subsection A of this section, the developer  
44 shall also provide to each customer before the close of any transaction  
45 information and materials that identify any timeshare exchange companies  
46 currently under contract and disclosure statements regarding the use of the  
47 timeshare exchange companies, as well as any additional information the  
48 commissioner deems appropriate.

1 F. The commissioner may authorize for use in this state by a developer  
2 of a timeshare plan in which all accommodations are located outside of this  
3 state a current public report that is issued by another jurisdiction or an  
4 equivalent registration and disclosure document that is required before  
5 offering a timeshare plan for sale, lease or use and that is issued by  
6 another jurisdiction. This authorization does not constitute an exemption  
7 from other applicable requirements of this article.

8 Sec. 20. Section 33-406, Arizona Revised Statutes, is amended to read:

9 33-406. Disclosure of transportation of water to property by  
10 motor vehicle or train; definition

11 A. Notwithstanding section 33-411, subsection D, a subdivider who  
12 sells a lot that was included in a plat approved by the legislative body of a  
13 city or town pursuant to an exemption authorized by section 9-463.01,  
14 subsection K or by the board of supervisors of a county pursuant to an  
15 exemption authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B,  
16 paragraph 1 shall record with the plat a document that contains a legal  
17 description of the land that is subject to the subdivision plat and that  
18 contains a statement that the lots are served by a water supply that has been  
19 determined as inadequate and that the water must be hauled to the lot.

20 B. For the purposes of this section, "subdivider" has the same meaning  
21 as prescribed in section 32-2101.

22 Sec. 21. Section 33-422, Arizona Revised Statutes, is amended to read:

23 33-422. Land divisions; recording; disclosure affidavit

24 A. A seller of five or fewer parcels of land, other than subdivided  
25 land, in an unincorporated area of a county and any subsequent seller of such  
26 a parcel shall furnish a written affidavit of disclosure to the buyer, at  
27 least seven days before the transfer of the property, and the buyer shall  
28 acknowledge receipt of the affidavit.

29 B. The affidavit must be written in twelve point type.

30 C. No release or waiver of a seller's liability arising out of any  
31 omission or misrepresentation contained in an affidavit of disclosure is  
32 valid or binding on the buyer.

33 D. The buyer has the right to rescind the sales transaction for a  
34 period of five days after the affidavit of disclosure is furnished to the  
35 buyer.

36 E. The seller shall record the executed affidavit of disclosure at the  
37 same time that the deed is recorded. The county recorder is not required to  
38 verify the accuracy of any statement in the affidavit of disclosure. A  
39 subsequently recorded affidavit supersedes any previous affidavit.

40 F. The affidavit of disclosure shall meet the requirements of section  
41 11-480 and follow substantially the following form:

42 When recorded mail to:

43 \_\_\_\_\_  
44 \_\_\_\_\_  
45 \_\_\_\_\_  
46 \_\_\_\_\_

47 Affidavit of Disclosure  
48 Pursuant to A.R.S. §33-422

- 1 I, \_\_\_\_\_ (seller(s))  
2 being duly sworn, hereby make this affidavit of disclosure  
3 relating to the real property situated in the unincorporated area  
4 of:  
5 \_\_\_\_\_, County, State of Arizona, located at:  
6 \_\_\_\_\_  
7 and legally described as:  
8 (Legal description attached hereto as exhibit "A")  
9 (property).
- 10 1. There ☐ is ☐ is not . . . . legal access to the property, as  
11 defined in A.R.S. § ~~11-809~~ 11-831 . . . . ☐ unknown  
12 Explain: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_
- 15 2. There ☐ is ☐ is not . . . . physical access to the property.  
16 ☐ unknown  
17 Explain: \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_
- 20 3. There ☐ is ☐ is not . . . . a statement from a licensed surveyor or  
21 engineer available stating whether the property has physical access that  
22 is traversable by a two-wheel drive passenger motor vehicle.
- 23 4. The legal and physical access to the property ☐ is ☐ is not . . . .  
24 the same....☐ unknown ☐ not applicable.  
25 Explain: \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_
- 28 *If access to the parcel is not traversable by emergency vehicles,*  
29 *the county and emergency service providers may not be held liable*  
30 *for any damages resulting from the inability to traverse the*  
31 *access to provide needed services.*
- 32 5. The road(s) is/are ☐ publicly maintained ☐ privately maintained  
33 ☐ not maintained ☐ not applicable. If applicable, there ☐ is ☐  
34 is not . . . . a recorded road maintenance agreement.  
35 *If the roads are not publicly maintained, it is the*  
36 *responsibility of the property owner(s) to maintain the roads and*  
37 *roads that are not improved to county standards and accepted for*  
38 *maintenance are not the county's responsibility.*
- 39 6. A portion or all of the property ☐ is ☐ is not . . . . located in a  
40 FEMA designated regulatory floodplain. If the property is in a  
41 floodplain, it may be subject to floodplain regulation.
- 42 7. The property ☐ is ☐ is not subject to ☐ fissures or  
43 ☐ expansive soils. ☐ unknown  
44 Explain: \_\_\_\_\_  
45 \_\_\_\_\_  
46 \_\_\_\_\_
- 47 8. The following services are currently provided to the property: ☐ water  
48 ☐ sewer ☐ electric ☐ natural gas ☐ single party telephone

- 1        ☐ cable television services.
- 2    9. The property ☐ is ☐ is not . . . . served by a water supply that
- 3        requires the transportation of water to the property.
- 4    10. The property is served by ☐ a private water company ☐ a municipal
- 5        water provider ☐ a private well ☐ a shared well ☐ no well. If
- 6        served by a shared well, the shared well ☐ is ☐ is not . . . . a
- 7        public water system, as defined by the safe drinking water act (42 United
- 8        States Code § 300f).
- 9        *Notice to buyer: If the property is served by a well, a private*
- 10       *water company or a municipal water provider the Arizona*
- 11       *department of water resources may not have made a water supply*
- 12       *determination. For more information about water supply, contact*
- 13       *the water provider.*
- 14    11. The property ☐ does have ☐ does not have . . . . an on-site
- 15       wastewater treatment facility (i.e., standard septic or alternative
- 16       system to treat and dispose of wastewater). ☐ unknown. If applicable:
- 17       a) The property ☐ will ☐ will not . . . . require installation of an
- 18       on-site wastewater treatment facility; b) The on-site wastewater
- 19       treatment facility ☐ has ☐ has not been inspected.
- 20    12. The property ☐ has been ☐ has not been . . . . subject to a
- 21       percolation test. ☐ unknown.
- 22    13. The property ☐ does ☐ does not . . . . meet the minimum applicable
- 23       county zoning requirements of the applicable zoning designation.
- 24    14. The sale of the property ☐ does ☐ does not . . . meet the requirements
- 25       of A.R.S. § ~~11-809~~ 11-831 regarding land divisions. If those
- 26       requirements are not met, the property owner may not be able to obtain a
- 27       building permit. The seller or property owner shall disclose each of the
- 28       deficiencies to the buyer.
- 29       Explain: \_\_\_\_\_
- 30       \_\_\_\_\_
- 31       \_\_\_\_\_
- 32    15. The property ☐ is ☐ is not located in the clear zone of a military
- 33       airport or ancillary military facility, as defined in A.R.S. § 28-8461.
- 34       (Maps are available at the state real estate department's website.)
- 35    16. The property ☐ is ☐ is not located in the high noise or accident
- 36       potential zone of a military airport or ancillary military facility, as
- 37       defined in A.R.S. § 28-8461. (Maps are available at the state real
- 38       estate department's website.)
- 39    17. Notice: If the property is located within the territory in the vicinity
- 40       of a military airport or ancillary military facility, the property is
- 41       required to comply with sound attenuation standards as prescribed by
- 42       A.R.S. § 28-8482. (Maps are available at the state real estate
- 43       department's website.)
- 44    18. The property ☐ is ☐ is not located under military restricted
- 45       airspace. ☐ unknown. (Maps are available at the state real estate
- 46       department's website.)
- 47    19. The property ☐ is ☐ is not located in a military electronics range as
- 48       defined in A.R.S. sections 9-500.28 and ~~11-812~~ 11-818. ☐ unknown. (Maps

are available at the state real estate department's website.)

20. Use of the property ☐ is ☐ is not limited in any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order or a pending legal action. If the use of the property is limited due to an encumbrance of title, the seller or property owner shall disclose the limitations to the buyer.

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

Dated this \_\_\_\_ (date) \_\_\_\_ day of \_\_\_\_ (year) \_\_\_\_ by:

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

State of Arizona )

) ss.

County of \_\_\_\_\_)

Subscribed and sworn before me this \_\_\_\_ (date) \_\_\_\_ day of \_\_\_\_ (year) \_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary public

My commission expires:  
\_\_\_\_\_  
(date)

Buyer(s) hereby acknowledges receipt of a copy of this affidavit of disclosure this \_\_\_\_ (date) \_\_\_\_ day of \_\_\_\_ (year) \_\_\_\_

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

G. For the purposes of this section, seller and subsequent seller do not include a trustee of a deed of trust who is selling property by a trustee's sale pursuant to title 33, chapter 6.1 or any officer who is selling property by execution sale pursuant to title 12, chapter 9 and title 33, chapter 6. If the seller is a trustee of a subdivision trust as defined in section 6-801, the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

Sec. 22. Section 34-201, Arizona Revised Statutes, is amended to read:

34-201. Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance

A. Except as provided in subsections B through G and L of this section, every agent ~~shall~~, upon acceptance and approval of the working drawings and specifications, **SHALL** publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if

1 it is a weekly newspaper or for two publications that are at least six but no  
2 more than ten days apart if it is a daily newspaper. The notice shall state:

3 1. The nature of the work required, the type, purpose and location of  
4 the proposed building, and where the plans, specifications and full  
5 information as to the proposed work may be obtained.

6 2. That contractors desiring to submit proposals may obtain copies of  
7 full or partial sets of plans and specifications for estimate on request or  
8 by appointment. The return of such plans and specifications shall be  
9 guaranteed by a deposit of a designated amount which shall be refunded on  
10 return of the plans and specifications in good order.

11 3. That every proposal shall be accompanied by a certified check,  
12 cashier's check or surety bond for ten per cent of the amount of the bid  
13 included in the proposal as a guarantee that the contractor will enter into a  
14 contract to perform the proposal in accordance with the plans and  
15 specifications. Notwithstanding the provisions of any other statute, the  
16 surety bond shall be executed solely by a surety company or companies holding  
17 a certificate of authority to transact surety business in this state issued  
18 by the director of the department of insurance pursuant to title 20, chapter  
19 2, article 1. The surety bond shall not be executed by an individual surety  
20 or sureties, even if the requirements of section 7-101 are satisfied. The  
21 certified check, cashier's check or surety bond shall be returned to the  
22 contractors whose proposals are not accepted, and to the successful  
23 contractor upon the execution of a satisfactory bond and contract as provided  
24 in this article. The conditions and provisions of the surety bid bond  
25 regarding the surety's obligations shall follow the following form:

26 Now, therefore, if the obligee accepts the proposal of the  
27 principal and the principal enters into a contract with the  
28 obligee in accordance with the terms of the proposal and gives  
29 the bonds and certificates of insurance as specified in the  
30 standard specifications with good and sufficient surety for the  
31 faithful performance of the contract and for the prompt payment  
32 of labor and materials furnished in the prosecution of the  
33 contract, or in the event of the failure of the principal to  
34 enter into the contract and give the bonds and certificates of  
35 insurance, if the principal pays to the obligee the difference  
36 not to exceed the penalty of the bond between the amount  
37 specified in the proposal and such larger amount for which the  
38 obligee may in good faith contract with another party to perform  
39 the work covered by the proposal then this obligation is void.  
40 Otherwise it remains in full force and effect provided, however,  
41 that this bond is executed pursuant to the provisions of section  
42 34-201, Arizona Revised Statutes, and all liabilities on this  
43 bond shall be determined in accordance with the provisions of the  
44 section to the extent as if it were copied at length herein.

45 4. That the right is reserved to reject any or all proposals or to  
46 withhold the award for any reason the agent determines.

47 B. If the agent believes that any construction, building addition or  
48 alteration contemplated at a public institution can be advantageously done by

1 the inmates of the public institution and regularly employed help, the agent  
2 may cause the work to be done without advertising for bids.

3 C. Any building, structure, addition or alteration may be constructed  
4 either with or without the use of the agent's regularly employed personnel  
5 without advertising for bids provided that the total cost of the work,  
6 excluding materials and equipment previously acquired by bid, does not  
7 exceed:

8 1. In fiscal year 1994-1995, fourteen thousand dollars.

9 2. In fiscal year 1995-1996 and each fiscal year thereafter, the  
10 amount provided in paragraph 1 of this subsection adjusted by the annual  
11 percentage change in the GDP price deflator as defined in section 41-563.

12 D. Notwithstanding ~~the provisions of~~ subsection C of this section, any  
13 street, road, bridge, water or sewer work, other than a water or sewer  
14 treatment plant or building, may be constructed either with or without the  
15 use of the agent's regularly employed personnel without advertising for bids  
16 provided that the total cost of the work does not exceed:

17 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

18 2. In fiscal year 1995-1996 and each fiscal year thereafter, the  
19 amount provided in paragraph 1 of this subsection adjusted by the annual  
20 percentage change in the GDP price deflator as defined in section 41-563.

21 E. For the purposes of subsection D of this section, the total cost of  
22 water or sewer work does not include services provided by volunteers or  
23 donations made for the water or sewer project.

24 F. Notwithstanding ~~the provisions of~~ this section, an agent may:

25 1. Construct, reconstruct, install or repair a natural gas or electric  
26 utility and distribution system, owned or operated by such agent, with  
27 regularly employed personnel of the agent without advertising for bids,  
28 unless otherwise prohibited by charter or ordinance.

29 2. Construct recreational projects, including trails, playgrounds,  
30 ballparks and other similar facilities and excluding buildings, structures,  
31 building additions and alterations to buildings, structures and building  
32 additions, with volunteer workers or workers provided by a nonprofit  
33 organization without advertising for bids for labor and materials provided  
34 that the total cost of the work does not exceed:

35 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

36 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the  
37 amount provided in subdivision (a) of this paragraph adjusted by the annual  
38 percentage change in the GDP price deflator as defined in section 41-563.

39 G. A contribution by an agent for the financing of public  
40 infrastructure made pursuant to a development agreement is exempt from the  
41 provisions of this section if such contribution for any single development  
42 does not exceed:

43 1. In fiscal year 1994-1995, one hundred thousand dollars.

44 2. In fiscal year 1995-1996 and each fiscal year thereafter, the  
45 amount provided in paragraph 1 of this subsection adjusted by the annual  
46 percentage change in the GDP price deflator as defined in section 41-563.

47 H. In addition to other state or local requirements relating to the  
48 publication of bids, each agent shall provide at least one set of all plans

1 and specifications to any construction news reporting service that files an  
2 annual request with the agent. For the purposes of this subsection,  
3 "construction news reporting service" means a service that researches,  
4 gathers and disseminates news and reports either in print or electronically,  
5 on at least a weekly basis for building projects, construction bids, the  
6 purchasing of materials, supplies or services and other construction bidding  
7 or planned activity to the allied construction industry. The allied  
8 construction industry includes both general and specialty contractors,  
9 builders, material and service suppliers, architects and engineers, owners,  
10 developers and government agencies.

11 I. Any construction by a county under this section shall comply with  
12 the uniform accounting system prescribed for counties by the auditor general  
13 under section 41-1279.21. Any construction by a city or town under this  
14 section shall comply with generally accepted accounting principles.

15 J. Any construction, building addition or alteration project which is  
16 financed by monies of this state or its political subdivisions shall not use  
17 endangered wood species unless an exemption is granted by the director of the  
18 department of administration. The director shall only grant an exemption if  
19 the use of endangered wood species is deemed necessary for historical  
20 restoration or to repair existing facilities and the use of any substitute  
21 material is not practical. Any lease-purchase agreement entered into by this  
22 state or its political subdivisions for construction shall specify that no  
23 endangered wood species may be used in the construction unless an exemption  
24 is granted by the director. As used in this subsection, "endangered wood  
25 species" includes those listed in appendix I of the convention on  
26 international trade in endangered species of wild flora and fauna.

27 K. All bonds given by a contractor and surety pursuant to the  
28 provisions of this article, regardless of their actual form, will be deemed  
29 by law to be the form required and set forth in this article and no other.

30 L. Any building, structure, addition or alteration may be constructed  
31 without complying with this article if the construction, including  
32 construction of buildings or structures on public or private property, is  
33 required as a condition of development of private property and is authorized  
34 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this  
35 subsection, building does not include police, fire, school, library, or other  
36 public buildings.

37 M. Notwithstanding section 34-221, any agent may enter into a  
38 guaranteed energy cost savings contract with a qualified provider, as those  
39 terms are defined in section 15-213.01, for the purchase of energy cost  
40 savings measures without complying with this article and may procure a  
41 guaranteed energy cost savings contract through the competitive sealed  
42 proposal process prescribed in title 41, chapter 23, article 3 or any similar  
43 competitive proposal process adopted by the agent as long as the agent  
44 follows any additional requirements set forth in section 15-213.01.

45 Sec. 23. Section 34-610, Arizona Revised Statutes, is amended to read:  
46 34-610. Accounting standards; statutory applicability

47 A. Any construction by a county pursuant to this chapter shall comply  
48 with the uniform accounting system prescribed for counties by the auditor



1 general pursuant to section 41-1279.21. Any construction by a city or a town  
2 pursuant to this chapter shall comply with generally accepted accounting  
3 principles.

4 B. Any building, structure, addition or alteration may be constructed  
5 without complying with this chapter if the construction, including  
6 construction of buildings or structures on public or private property, is  
7 required as a condition of development of private property and is authorized  
8 by section 9-463.01 or ~~11-806.01~~ 11-822. For the purposes of this  
9 subsection, building does not include police, fire, school, library or other  
10 public buildings.

11 C. Section 34-104, section 34-201, subsections A through I, K and L  
12 and sections 34-202, 34-203, 34-221, 34-222, 34-223 and 34-224 do not apply  
13 to procurement by an agent of construction-manager-at-risk construction  
14 services, design-build construction services and job-order-contracting  
15 construction services.

16 D. Section 34-201, subsections J and M and sections 34-225 and 34-226  
17 apply to procurement by an agent of construction-manager-at-risk construction  
18 services, design-build construction services and job-order-contracting  
19 construction services.

20 Sec. 24. Section 37-132, Arizona Revised Statutes, is amended to read:

21 37-132. Powers and duties

22 A. The commissioner shall:

23 1. Exercise and perform all powers and duties vested in or imposed  
24 upon the department, and prescribe such rules as are necessary to discharge  
25 those duties.

26 2. Exercise the powers of surveyor-general except for the powers of  
27 the surveyor-general exercised by the treasurer as a member of the selection  
28 board pursuant to section 37-202.

29 3. Make long-range plans for the future use of state lands in  
30 cooperation with other state agencies, local planning authorities and  
31 political subdivisions.

32 4. Promote the infill and orderly development of state lands in areas  
33 beneficial to the trust and prevent urban sprawl or leapfrog development on  
34 state lands.

35 5. Classify and appraise all state lands, together with the  
36 improvements on state lands, for the purpose of sale, lease or grant of  
37 rights-of-way. The commissioner may impose such conditions and covenants and  
38 make such reservations in the sale of state lands as the commissioner deems  
39 to be in the best interest of the state trust. The provisions of this  
40 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,  
41 article 10 and, except as provided in section 41-1092.08, subsection H, are  
42 subject to judicial review pursuant to title 12, chapter 7, article 6.

43 6. Have authority to lease for grazing, agricultural, homesite or  
44 other purposes, except commercial, all land owned or held in trust by the  
45 state.

46 7. Have authority to lease for commercial purposes and sell all land  
47 owned or held in trust by the state, but any such lease for commercial  
48 purposes or any such sale shall first be approved by the board of appeals.

1           8. Except as otherwise provided, determine all disputes, grievances or  
2 other questions pertaining to the administration of state lands.

3           9. Appoint deputies and other assistants and employees necessary to  
4 perform the duties of the department, assign their duties, ~~and~~ and require of  
5 them such surety bonds as the commissioner deems proper. The compensation of  
6 the deputy, assistants or employees shall be as determined pursuant to  
7 section 38-611.

8           10. Make a written report to the governor annually, not later than  
9 September 1, disclosing in detail the activities of the department for the  
10 preceding fiscal year, and publish it for distribution. The report shall  
11 include an evaluation of auctions of state land leases held during the  
12 preceding fiscal year considering the advantages and disadvantages to the  
13 state trust of the existence and exercise of preferred rights to lease  
14 reclassified state land.

15           11. Withdraw state land from surface or subsurface sales or lease  
16 applications if the commissioner deems it to be in the best interest of the  
17 trust. This closure of state lands to new applications for sale or lease  
18 does not affect the rights ~~which~~ THAT existing lessees have under law for  
19 renewal of their leases and reimbursement for improvements.

20           B. The commissioner may:

21           1. Take evidence relating to, and may require of the various county  
22 officers information on, any matter that the commissioner has the power  
23 to investigate or determine.

24           2. Under such rules as the commissioner adopts, use private real  
25 estate brokers to assist in any sale or long-term lease of state land and  
26 pay, from fees collected under section 37-108, subsection A, paragraph 10,  
27 subdivision (a), a commission to a broker that is licensed pursuant to title  
28 32, chapter 20 and that provides the purchaser or lessee at auction. The  
29 purchaser or lessee at auction is not eligible to receive a commission  
30 pursuant to this subsection. A commission shall not be paid on a sale or a  
31 long-term lease if the purchaser or lessee is another governmental agency.

32           3. Require a permittee, lessee or grantee to post a surety bond or any  
33 form of collateral deemed sufficient by the commissioner for performance or  
34 restoration purposes. The commissioner shall use the proceeds of a bond or  
35 collateral only for the purposes determined at the time the bond or  
36 collateral is posted. For agricultural lessees, the commissioner may require  
37 collateral as follows:

38           (a) As security for payment of the annual assessments levied by the  
39 irrigation district in which the state land is located if the lessee has a  
40 history of late payments or defaults. The amount of the collateral required  
41 shall not exceed the annual assessment levied by the irrigation district.

42           (b) As security for payment of rent, if an extension of time for  
43 payment is requested or if the lessee has a history of late payments of rent.  
44 The collateral shall be submitted at the time any extension of time for  
45 payment is requested. The amount of the collateral required shall not exceed  
46 the annual amount of rent for the land.

47           (c) A surety bond shall be required only if the commissioner  
48 determines that other forms of collateral are insufficient.

1           4. Withhold market and economic analyses, preliminary engineering,  
2 site and area studies and appraisals that are collected during the urban  
3 planning process from public viewing before they are submitted to local  
4 planning and zoning authorities.

5           5. Withhold from public inspection proprietary information received  
6 during lease negotiations. The proprietary information shall be released to  
7 public inspection unless the release may harm the competitive position of the  
8 applicant and the information could not have been obtained by other  
9 legitimate means.

10          6. Issue permits for short-term use of state land for specific  
11 purposes as prescribed by rule.

12          7. Contract with a third party to sell recreational permits. A third  
13 party under contract pursuant to this paragraph may assess a surcharge for  
14 its services as provided in the contract, in addition to the fees prescribed  
15 by section 37-108.

16          8. Close urban lands to specific uses as prescribed by rule if  
17 necessary for dust abatement, to reduce a risk from hazardous environmental  
18 conditions that pose a risk to human health or safety or for remediation  
19 purposes.

20          9. Notwithstanding subsection A, paragraph 4 of this section,  
21 authorize, in the best interest of the trust, the extension of public  
22 services and facilities either:

23           (a) That are necessary to implement plans of the local governing body,  
24 including plans adopted or amended pursuant to section 9-461.06 or ~~11-824~~  
25 ~~11-805~~.

26           (b) Across state lands that are either:

27           (i) Classified as suitable for conservation pursuant to section  
28 37-312.

29           (ii) Sold or leased at auction for conservation purposes.

30          C. The commissioner or any deputy or employee of the department shall  
31 not have, own or acquire, directly or indirectly, any state lands or the  
32 products on any state lands, any interest in or to such lands or products, or  
33 improvements on leased state lands, or be interested in any state irrigation  
34 project affecting state lands.

35          Sec. 25. Section 37-331.03, Arizona Revised Statutes, is amended to  
36 read:

37          37-331.03. Conceptual urban state trust land use plans; five  
38               year state trust land disposition plans;  
39               definitions

40          A. The commissioner shall create conceptual land use plans for all  
41 urban state trust land in this state and other state trust lands the  
42 commissioner considers to be appropriate. The commissioner shall:

43           1. Prioritize the creation of conceptual plans to the extent possible  
44 to:

45           (a) Correlate with the rate of population growth in the urban areas in  
46 this state.

1 (b) Coincide with the production of municipal general plans under  
2 title 9, chapter 4, article 6 and county plans under title 11, chapter 6,  
3 article ~~2~~ 1.

4 2. Revise and update each plan at least every ten years.

5 3. Consult with the city, town or county in which the land is located  
6 and with any regional planning organization regarding integrating the  
7 conceptual plan into the general land use plan of the city, town or county.

8 4. Submit each plan, and revision of the plan, to the urban land  
9 planning oversight committee for review.

10 B. On approval of the conceptual land use plan by the commissioner  
11 under this section, the conceptual plan is considered to be a state general  
12 plan for purposes of this article.

13 C. The commissioner may create the conceptual land use plans under  
14 subsection A of this section by any of the following methods:

15 1. Using department staff or private consultants.

16 2. Entering into participation contracts pursuant to section 37-239.

17 3. Issuing planning permits for urban lands pursuant to section  
18 37-338.

19 4. Entering into planning contracts for urban lands or other state  
20 trust lands the commissioner considers to be appropriate, including  
21 compensation as provided by section 37-338, subsection D.

22 D. The commissioner shall create five year disposition plans for all  
23 state trust land in this state, based at a minimum on market demand,  
24 anticipated transportation and infrastructure availability. The commissioner  
25 shall:

26 1. Review and update each plan each year as may be necessary.

27 2. Consult with the city, town or county in which the land is located  
28 and with any regional planning organization.

29 3. Submit each plan and revision to the urban land planning oversight  
30 committee to ensure conformity with the conceptual plan under subsection A.

31 E. For the purposes of this section:

32 1. "Conceptual land use plan" means a plan that is developed for urban  
33 state trust land and other state trust lands the commissioner considers to be  
34 appropriate and that identifies:

35 (a) Appropriate land uses, including commercial, industrial,  
36 residential and open space uses.

37 (b) Transportation corridors and infrastructure requirements.

38 (c) All natural and artificial constraints and opportunities  
39 associated with the land.

40 2. "Five year disposition plan" means a plan that identifies the land  
41 projected to be sold, leased, reclassified for conservation purposes, master  
42 planned or zoned during the next five years.

43 Sec. 26. Section 40-360.53, Arizona Revised Statutes, is amended to  
44 read:

45 40-360.53. Utility facilities included in municipal and county  
46 plans

47 A. If a utility develops and delivers a ~~facilities~~ FACILITY plan to a  
48 municipality or a county, the municipality or county, with respect to the

1 facilities located in its corporate limits or planning area, shall include  
2 the location and nature of the planned facilities in the municipality general  
3 plan under section 9-461.05 or the county comprehensive plan under section  
4 ~~11-821~~ 11-804.

5 B. The utility shall update each facility plan provided to a  
6 municipality or a county ~~on a periodic basis, but~~ at least every two years.

7 Sec. 27. Section 41-1512.02, Arizona Revised Statutes, is amended to  
8 read:

9 41-1512.02. Appropriations; purposes; exemption

10 A. The sum of \$75,000 and 1 FTE is appropriated from the state general  
11 fund in fiscal years 2004-2005 and 2005-2006 and each year thereafter to the  
12 department of commerce.

13 B. The sum of \$100,000 is appropriated from the state general fund in  
14 fiscal years 2004-2005 and 2005-2006 and each year thereafter to the attorney  
15 general's office for implementation of ~~sections~~ SECTION 9-461.06, ~~11-806,~~  
16 ~~11-824~~ TITLE 11, CHAPTER 6, ARTICLE 1 and SECTION 28-8481.

17 C. For fiscal years 2004-2005 and 2005-2006 and each year thereafter,  
18 the sum of \$4,825,000 is appropriated from the state general fund to the  
19 military installation fund established by, and for the purposes prescribed  
20 by, section 41-1512.01.

21 D. The appropriations made in subsections A, B and C of this section  
22 are exempt from the provisions of section 35-190 relating to lapsing of  
23 appropriations.

24 Sec. 28. Section 41-1519, Arizona Revised Statutes, is amended to  
25 read:

26 41-1519. Small community planning assistance program

27 Subject to legislative appropriation, the department shall establish a  
28 small community planning assistance program. The department shall provide  
29 grants and technical assistance to the following entities:

30 1. Any city or town with a population of more than two thousand five  
31 hundred persons but less than fifteen thousand persons for the purpose of  
32 complying with the requirements of section 9-461.05, subsection D.

33 2. Any county with a population of less than one hundred thousand  
34 persons for the purpose of complying with planning ~~requirement~~ REQUIREMENTS  
35 under title 11, chapter 6, article ~~2- 1~~.

36 Sec. 29. Section 45-108, Arizona Revised Statutes, is amended to read:

37 45-108. Evaluation of subdivision water supply; definition

38 A. In areas outside of active management areas established pursuant to  
39 chapter 2, article 2 of this title, the developer of a proposed subdivision  
40 including dry lot subdivisions, regardless of subdivided lot size, prior to  
41 recordation of the plat, shall submit plans for the water supply for the  
42 subdivision and demonstrate the adequacy of the water supply to meet the  
43 needs projected by the developer to the director. The director shall  
44 evaluate the plans and issue a report on the plans.

45 B. The director shall evaluate the proposed source of water for the  
46 subdivision to determine whether there is an adequate water supply for the  
47 subdivision, and shall forward a copy of the director's report to the state

1 real estate commissioner and the city, town or county responsible for  
2 platting the subdivision.

3 C. The director may designate cities, towns and private water  
4 companies as having an adequate water supply by reporting that designation to  
5 the water department of the city or town or private water company and the  
6 state real estate commissioner.

7 D. As an alternative to designation under subsection C **OF THIS**  
8 **SECTION**, the director may designate a city or town that has entered into a  
9 contract with the United States secretary of the interior or a county water  
10 authority established pursuant to chapter 13 of this title for permanent  
11 supplies of Colorado river water for municipal and industrial use as having  
12 an adequate water supply if all of the following apply:

13 1. The city or town has entered into a contract with each private  
14 water company that serves water within the city or town to provide Colorado  
15 river water to those private water companies.

16 2. The Colorado river water for which the city or town has contracted  
17 is sufficient together with other water supplies available to the city or  
18 town and the private water companies that serve water within that city or  
19 town to provide an adequate supply of water for the city or town.

20 3. The director finds that new subdivisions within the city or town  
21 will be served primarily with Colorado river water by the city or town or one  
22 of the private water companies that serve water within that city or town.

23 E. The director shall not require a developer to submit plans for the  
24 water supply pursuant to subsection A **OF THIS SECTION** if either:

25 1. Both of the following apply:

26 (a) The developer has obtained a written commitment of water service  
27 from cities, towns or private water companies that have been designated as  
28 having an adequate water supply.

29 (b) That city, town or private water company has been designated as  
30 having an adequate water supply pursuant to subsection C **OF THIS SECTION**.

31 2. All of the following apply:

32 (a) The city or town has been designated as having an adequate water  
33 supply pursuant to subsection D **OF THIS SECTION**.

34 (b) The developer has obtained a written commitment of water service  
35 from the city or town or a private water company that serves water within  
36 that city or town.

37 (c) The developer has obtained the written concurrence of the city or  
38 town that has been designated.

39 F. The director may revoke a designation made pursuant to this section  
40 when the director finds that the water supply may become inadequate.

41 G. The state of Arizona and the director or department shall not be  
42 liable for any report, designation or evaluation prepared in good faith  
43 pursuant to this section.

44 H. If the director receives written notice from the board of  
45 supervisors of a county that it has adopted the provision authorized by  
46 section ~~11-806.01, subsection F~~ **11-823, SUBSECTION A**, the director shall give  
47 written notice of the provision to the mayors of all cities and towns in the

1 county. A city or town that receives the notice shall comply with section  
2 9-463.01, subsections J, K, L, M and N.

3 I. For the purposes of this section, "adequate water supply" means  
4 both of the following:

5 1. Sufficient groundwater, surface water or effluent of adequate  
6 quality will be continuously, legally and physically available to satisfy the  
7 water needs of the proposed use for at least one hundred years.

8 2. The financial capability has been demonstrated to construct the  
9 water facilities necessary to make the supply of water available for the  
10 proposed use, including a delivery system and any storage facilities or  
11 treatment works. The director may accept evidence of the construction  
12 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to  
13 satisfy this requirement.

14 Sec. 30. Section 45-108.01, Arizona Revised Statutes, is amended to  
15 read:

16 45-108.01. Application for water report or designation of  
17 adequate water supply; notice; objections;  
18 hearing; appeals

19 A. On receipt of an application for a water report or an application  
20 by a city, town or private water company to be designated as having an  
21 adequate water supply under section 45-108, if the proposed use is in a  
22 county that has adopted the provision authorized by section ~~11-806.01,~~  
23 ~~subsection F~~ 11-823, SUBSECTION A or in a city or town that has enacted an  
24 ordinance pursuant to section 9-463.01, subsection O, the director shall  
25 publish notice of the application once each week for two consecutive weeks in  
26 a newspaper of general circulation in the groundwater basin in which the  
27 applicant proposes to use water. The first publication shall occur within  
28 fifteen days after the application is determined or deemed to be  
29 administratively complete. If the application is substantially modified  
30 after notice of the application is given pursuant to this subsection, the  
31 director shall give notice of the application as modified in the manner  
32 prescribed by this subsection. The first publication of any subsequent  
33 notice shall occur within fifteen days after the modified application is  
34 determined or deemed to be administratively complete.

35 B. Notice pursuant to subsection a of this section shall state that  
36 written objections to the application may be filed with the director by  
37 residents and landowners within the groundwater basin within fifteen days  
38 after the last publication of notice. An objection shall state the name and  
39 mailing address of the objector and be signed by the objector, the objector's  
40 agent or the objector's attorney. The grounds for objection are limited to  
41 whether the application meets the criteria for determining an adequate water  
42 supply set forth in section 45-108, subsection I. The objection shall  
43 clearly set forth reasons why the application does not meet the criteria.

44 C. In appropriate cases, including cases in which a proper written  
45 objection to the application has been filed, an administrative hearing may be  
46 held before the director's decision on the application if the director deems  
47 a hearing necessary. Thirty days before the date of the hearing, the  
48 director shall give notice of the hearing to the applicant and to any person



1 who filed a proper written objection to the application. The hearing shall  
2 be scheduled for at least sixty days but not more than ninety days after the  
3 expiration of the time in which to file objections.

4 D. If the application is for a water report:

5 1. If the director determines that an adequate water supply exists for  
6 the proposed use, the director shall issue a water report stating that the  
7 water supply for the subdivision is adequate.

8 2. If the director determines that an adequate water supply does not  
9 exist, the director shall issue a water report stating that the water supply  
10 for the subdivision is inadequate.

11 E. If the application is for a designation of adequate water supply:

12 1. If the director determines that an adequate water supply exists for  
13 the proposed use, the director shall approve the application.

14 2. If the director determines that an adequate water supply does not  
15 exist, the director shall deny the application.

16 F. The applicant or a person who contested the application by filing a  
17 proper objection pursuant to subsection B of this section may seek judicial  
18 review of the final decision of the director as provided in section 45-114,  
19 subsection B in the superior court.

20 G. Section 45-114, subsections A and B govern administrative  
21 proceedings, rehearings or reviews and judicial reviews of final decisions of  
22 the director under this section. If an administrative hearing is held, it  
23 shall be conducted in the groundwater basin in which the use is located.

24 Sec. 31. Section 45-108.02, Arizona Revised Statutes, is amended to  
25 read:

26 45-108.02. Exemption from adequate water supply requirements  
27 for city, town or county based on substantial  
28 capital investment; application; criteria;  
29 expiration

30 A. If the director determines pursuant to section 45-108 that an  
31 adequate water supply does not exist for a proposed subdivision and the  
32 proposed subdivision is located in a city, town or county that requires a  
33 determination of adequate water supply by the director as a condition of  
34 approval of the plat pursuant to section 9-463.01, subsection J or O or  
35 section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider may  
36 apply to the director for an exemption from the water adequacy requirement  
37 pursuant to this section on a form prescribed by the director within one year  
38 after the requirement first becomes effective. The director shall grant the  
39 exemption if the subdivider demonstrates to the satisfaction of the director  
40 that all of the following apply:

41 1. The subdivider has made substantial capital investment toward the  
42 construction of the proposed subdivision before the date the water adequacy  
43 requirement first became effective. For the purposes of this paragraph,  
44 substantial capital investment may include construction costs, site  
45 preparation costs, construction of off-site improvements and conversion or  
46 remodeling costs for existing structures, as well as planning and design  
47 costs associated with those items, but does not include the original cost of  
48 acquiring the property.



1           2. The subdivider was not aware of the proposed water adequacy  
2 requirement at the time the investment was made.

3           3. The proposed subdivision complied in all other respects with  
4 existing state laws as of the date the water adequacy requirement became  
5 effective.

6           B. If the director grants an exemption pursuant to subsection A of  
7 this section:

8           1. The exemption expires five years after the date the exemption is  
9 granted, unless before that date at least one parcel in the subdivision is  
10 sold to a bona fide purchaser or the director extends the exemption pursuant  
11 to paragraph 2 of this subsection.

12           2. The director may extend the period of the exemption for no more  
13 than two successive five-year periods if the subdivider applies for an  
14 extension before the exemption expires and demonstrates to the satisfaction  
15 of the director that the subdivider has made material progress in developing  
16 the subdivision, but that sales of parcels in the subdivision have been  
17 delayed for reasons outside the control of the subdivider.

18           C. If an exemption granted under this section expires, any public  
19 report issued for the subdivision by the state real estate commissioner  
20 pursuant to section 32-2183 expires and the subdivider shall not sell any  
21 lots in the subdivision unless both of the following apply:

22           1. The subdivider files with the state real estate commissioner a new  
23 notice of intention to subdivide lands pursuant to section 32-2181 and  
24 complies with section 32-2181, subsection F.

25           2. The state real estate commissioner issues a new public report for  
26 the subdivision pursuant to section 32-2183.

27           D. Section 45-114, subsections A and B govern administrative  
28 proceedings, rehearing or review and judicial review of final decisions of  
29 the director under this section.

30           Sec. 32. Section 45-108.03, Arizona Revised Statutes, is amended to  
31 read:

32           45-108.03. Exemption from adequate water supply requirements  
33                           for city, town or county based on an adequate  
34                           water supply within twenty years; criteria:  
35                           application

36           A. If a proposed subdivision is located in a city, town or county that  
37 requires an adequate water supply determination by the director as a  
38 condition of approval of the plat pursuant to section 9-463.01, subsection J  
39 or 0 or section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A, the subdivider  
40 may apply to the director for an exemption from the requirement pursuant to  
41 this section on a form prescribed by the director. The director shall grant  
42 the exemption if the subdivider demonstrates to the satisfaction of the  
43 director that the subdivision will be served by a water supply project to  
44 which both of the following apply:

45           1. The subdivider has demonstrated financial capability pursuant to  
46 section 45-108, subsection I, but the water supply project will not be  
47 capable of serving the subdivision with sufficient water to meet its demands  
48 in a timely manner because of one of the following:

1 (a) The physical works for delivering water to the subdivision are not  
2 complete but are under construction and will be completed within twenty  
3 years.

4 (b) The subdivision will be served Colorado river water by a water  
5 provider that does not currently have the legal right to serve the water to  
6 the subdivision, but the water provider has an existing permanent contract  
7 for the Colorado river water and will have the legal right to serve the water  
8 to the subdivision within twenty years.

9 2. The subdivision will have an adequate water supply when the  
10 construction of the physical works is completed or the water supply is  
11 legally available to serve the subdivision, whichever applies, and the  
12 interim water supply that will serve the subdivision meets all of the  
13 criteria for an adequate water supply under section 45-108 except that the  
14 interim water supply will not be available for one hundred years.

15 B. Section 45-114, subsections A and B govern administrative  
16 proceedings, rehearing or review and judicial review of final decisions of  
17 the director under this section.

18 Sec. 33. Section 45-108.04, Arizona Revised Statutes, is amended to  
19 read:

20 45-108.04. Definition of adequate water supply; upper San Pedro  
21 water district

22 For the purposes of section 45-108, if the upper San Pedro water  
23 district is established under title 48, chapter 37 for proposed uses in the  
24 district, "adequate water supply" means a water supply that complies with all  
25 of the following:

26 1. Sufficient groundwater, surface water or effluent of adequate  
27 quality will be continuously, legally and physically available to satisfy the  
28 water needs of the proposed use for at least one hundred years.

29 2. The projected water use is consistent with the goal of the district  
30 as set forth in section 48-6403, subsection B and the district's ability to  
31 meet the measurable objectives for achieving the goal as included in the  
32 district's most recent comprehensive plan, as determined by the director. If  
33 the district is established, the director shall adopt rules containing  
34 criteria for making determinations under this paragraph and shall consult  
35 with the district board in developing the rules.

36 3. The financial capability has been demonstrated to construct the  
37 water facilities necessary to make the supply of water available for the  
38 proposed use, including a delivery system and any storage facilities or  
39 treatment works. The director may accept evidence of the construction  
40 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to  
41 satisfy this requirement.

42 Sec. 34. Section 45-576, Arizona Revised Statutes, is amended to read:

43 45-576. Certificate of assured water supply; designated cities,  
44 towns and private water companies; exemptions;  
45 definition

46 A. A person who proposes to offer subdivided lands, as defined in  
47 section 32-2101, for sale or lease in an active management area shall apply  
48 for and obtain a certificate of assured water supply from the director prior

1 to presenting the plat for approval to the city, town or county in which the  
2 land is located, where such is required, and prior to filing with the state  
3 real estate commissioner a notice of intention to offer such lands for sale  
4 or lease, pursuant to section 32-2181, unless the subdivider has obtained a  
5 written commitment of water service for the subdivision from a city, town or  
6 private water company designated as having an assured water supply pursuant  
7 to this section.

8 B. A city, town or county may approve a subdivision plat only if the  
9 subdivider has obtained a certificate of assured water supply from the  
10 director or the subdivider has obtained a written commitment of water service  
11 for the subdivision from a city, town or private water company designated as  
12 having an assured water supply pursuant to this section. The city, town or  
13 county shall note on the face of the approved plat that a certificate of  
14 assured water supply has been submitted with the plat or that the subdivider  
15 has obtained a written commitment of water service for the proposed  
16 subdivision from a city, town or private water company designated as having  
17 an assured water supply pursuant to this section.

18 C. The state real estate commissioner may issue a public report  
19 authorizing the sale or lease of subdivided lands only on compliance with  
20 either of the following:

21 1. The subdivider, owner or agent has obtained a certificate of  
22 assured water supply from the director and has paid any activation fee  
23 required under section 48-3772, subsection A, paragraph 7 and any  
24 replenishment reserve fee required under section 48-3774.01, subsection A,  
25 paragraph 2.

26 2. If the subdivider has obtained a written commitment of water  
27 service for the lands from a city, town or private water company designated  
28 as having an assured water supply pursuant to this section and the  
29 subdivider, owner or agent has paid any activation fee required under section  
30 48-3772, subsection A, paragraph 7.

31 D. The director shall designate private water companies in active  
32 management areas that have an assured water supply. If a city or town  
33 acquires a private water company that has contracted for central Arizona  
34 project water, the city or town shall assume the private water company's  
35 contract for central Arizona project water.

36 E. The director shall designate cities and towns in active management  
37 areas where an assured water supply exists. If a city or town has entered  
38 into a contract for central Arizona project water, the city or town is deemed  
39 to continue to have an assured water supply until December 31,  
40 1997. Commencing on January 1, 1998, the determination that the city or town  
41 has an assured water supply is subject to review by the director and the  
42 director may determine that a city or town does not have an assured water  
43 supply.

44 F. The director shall notify the mayors of all cities and towns in  
45 active management areas and the chairmen of the boards of supervisors of  
46 counties in which active management areas are located of the cities, towns  
47 and private water companies designated as having an assured water supply and  
48 any modification of that designation within thirty days of the designation or

1 modification. If the service area of the city, town or private water company  
2 has qualified as a member service area pursuant to title 48, chapter 22,  
3 article 4, the director shall also notify the conservation district of the  
4 designation or modification and shall report the projected average annual  
5 replenishment obligation for the member service area based on the projected  
6 and committed average annual demand for water within the service area during  
7 the effective term of the designation or modification subject to any  
8 limitation in an agreement between the conservation district and the city,  
9 town or private water company. For each city, town or private water company  
10 that qualified as a member service area under title 48, chapter 22 and was  
11 designated as having an assured water supply before January 1, 2004, the  
12 director shall report to the conservation district on or before January 1,  
13 2005 the projected average annual replenishment obligation based on the  
14 projected and committed average annual demand for water within the service  
15 area during the effective term of the designation subject to any limitation  
16 in an agreement between the conservation district and the city, town or  
17 private water company. Persons proposing to offer subdivided lands served by  
18 those designated cities, towns and private water companies for sale or lease  
19 are exempt from applying for and obtaining a certificate of assured water  
20 supply.

21 G. This section does not apply in the case of the sale of lands for  
22 developments that are subject to a mineral extraction and processing permit  
23 or an industrial use permit pursuant to sections 45-514 and 45-515.

24 H. The director shall adopt rules to carry out the purposes of this  
25 section. On or before January 1, 2008, the rules shall provide for a  
26 reduction in water demand for an application for a designation of assured  
27 water supply or a certificate of assured water supply if a gray water reuse  
28 system will be installed that meets the requirements of the rules adopted by  
29 the department of environmental quality for gray water systems and if the  
30 application is for a certificate of assured water supply, the land for which  
31 the certificate is sought must qualify as a member land in a conservation  
32 district pursuant to title 48, chapter 22, article 4. For the purposes of  
33 this subsection, "gray water" has the same meaning prescribed in section  
34 49-201.

35 I. If the director designates a municipal provider as having an  
36 assured water supply under this section and the designation lapses or  
37 otherwise terminates while the municipal provider's service area is a member  
38 service area of a conservation district, the municipal provider or its  
39 successor shall continue to comply with the consistency with management goal  
40 requirements in the rules adopted by the director under subsection H of this  
41 section as if the designation was still in effect with respect to the  
42 municipal provider's designation uses. When determining compliance by the  
43 municipal provider or its successor with the consistency with management goal  
44 requirements in the rules, the director shall consider only water delivered  
45 by the municipal provider or its successor to the municipal provider's  
46 designation uses. A person is the successor of a municipal provider if the  
47 person commences water service to uses that were previously designation uses  
48 of the municipal provider. Any groundwater delivered by the municipal

1 provider or its successor to the municipal provider's designation uses in  
2 excess of the amount allowed under the consistency with management goal  
3 requirements in the rules shall be considered excess groundwater for purposes  
4 of title 48, chapter 22. For the purposes of this subsection, "designation  
5 uses" means all water uses served by a municipal provider on the date the  
6 municipal provider's designation of assured water supply lapses or otherwise  
7 terminates and all recorded lots within the municipal provider's service area  
8 that were not being served by the municipal provider on that date but that  
9 received final plat approval from a city, town or county on or before that  
10 date. Designation uses do not include industrial uses served by an  
11 irrigation district under section 45-497.

12 J. For the purposes of this section, "assured water supply" means all  
13 of the following:

14 1. Sufficient groundwater, surface water or effluent of adequate  
15 quality will be continuously available to satisfy the water needs of the  
16 proposed use for at least one hundred years. Beginning January 1 of the  
17 calendar year following the year in which a groundwater replenishment  
18 district is required to submit its preliminary plan pursuant to section  
19 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a  
20 member of the district, "sufficient groundwater" for the purposes of this  
21 paragraph means that the proposed groundwater withdrawals that the applicant  
22 will cause over a period of one hundred years will be of adequate quality and  
23 will not exceed, in combination with other withdrawals from land in the  
24 replenishment district, a depth to water of one thousand feet or the depth of  
25 the bottom of the aquifer, whichever is less. In determining depth to water  
26 for the purposes of this paragraph, the director shall consider the  
27 combination of:

28 (a) The existing rate of decline.

29 (b) The proposed withdrawals.

30 (c) The expected water requirements of all recorded lots that are not  
31 yet served water and that are located in the service area of a municipal  
32 provider.

33 2. The projected groundwater use is consistent with the management  
34 plan and achievement of the management goal for the active management area.

35 3. The financial capability has been demonstrated to construct the  
36 water facilities necessary to make the supply of water available for the  
37 proposed use, including a delivery system and any storage facilities or  
38 treatment works. The director may accept evidence of the construction  
39 assurances required by section 9-463.01, ~~11-806.01~~ 11-823 or 32-2181 to  
40 satisfy this requirement.

41 Sec. 35. Section 48-3609.01, Arizona Revised Statutes, is amended to  
42 read:

43 48-3609.01. Watercourse master plans; definition

44 A. If a district organized pursuant to this chapter has completed a  
45 watercourse master plan which includes one or more watercourses, and if the  
46 plan has been adopted by the board or by any other jurisdiction in that river  
47 or drainage system, the board and the governing body of each jurisdiction may  
48 adopt and shall enforce uniform rules for that river or drainage system

1 within the jurisdiction using criteria that meet or exceed criteria adopted  
2 by the director of water resources pursuant to section 48-3605, subsection A.

3 B. During the preparation of a watercourse master plan, record owners  
4 of real property in and immediately contiguous to the watercourse or  
5 watercourses included in the planning shall be publicly notified by the board  
6 or its agents so that the owners may have input to the planning process. In  
7 addition, aggregate mining operations recommendation committees organized  
8 pursuant to section ~~11-830~~ 11-812, subsection D, if any, shall be notified.

9 C. All watercourse master plans shall consider recharge techniques  
10 including gabions, swales, dry wells, sand tanks and small dams.

11 D. This section does not apply to any city or town which has adopted a  
12 resolution assuming floodplain management and regulation within its area of  
13 jurisdiction as provided in section 48-3610 prior to July 1, 1990.

14 E. A district that has prepared a watercourse master plan for a river  
15 may participate in the planning, establishment and operation of a  
16 recreational corridor channelization district established pursuant to chapter  
17 35 of this title.

18 F. For the purposes of this section, "watercourse master plan" means a  
19 hydraulic plan for a watercourse that examines the cumulative impacts of  
20 existing development and future encroachment in the floodplain and future  
21 development in the watershed on potential flood damages and that establishes  
22 technical criteria for subsequent development so as to minimize potential  
23 flood damages for all flood events up to and including the one hundred-year  
24 flood.

25 Sec. 36. Section 48-5802, Arizona Revised Statutes, is amended to  
26 read:

27 48-5802. Formation of district; election

28 ~~A. A county board of supervisors may establish a public health~~  
29 ~~services district pursuant to either subsection B or C of this section.~~

30 A. A PUBLIC HEALTH SERVICES DISTRICT MAY BE ESTABLISHED IN A COUNTY AS  
31 PROVIDED BY THIS SECTION.

32 B. BEGINNING JANUARY 1, 2009, TO ESTABLISH A PUBLIC HEALTH SERVICES  
33 DISTRICT the board of supervisors may provide for an election on the  
34 formation of the district and shall submit the question to the qualified  
35 electors of the county on a date prescribed by section 16-204. The ballot  
36 for the election shall contain the words "district formation, yes" and  
37 "district formation, no". The county shall administer the election as  
38 otherwise provided by law. If a majority of the persons voting on the  
39 question approves the question, the district shall be formed to consist of  
40 the entire county including the cities and towns that are located in whole or  
41 in part in the county. If a district is formed pursuant to this subsection,  
42 the county shall not reduce expenditures for public health to an amount that  
43 is less than fifty per cent of the county's fiscal year general fund public  
44 health expenditures as determined by calculating the average of the fiscal  
45 year expenditure amounts for the three fiscal years immediately preceding the  
46 year of the election. Costs for financing construction of any building shall  
47 not be included in the calculation of expenditures.

1 C. **THROUGH DECEMBER 31, 2008**, the board of supervisors may establish a  
2 district by unanimous vote of the board. If established by unanimous vote  
3 **PURSUANT TO THIS SUBSECTION**, the district shall be formed to consist of the  
4 entire county including the cities and towns that are located in whole or in  
5 part in the county. If a district is formed pursuant to this subsection, the  
6 county shall not reduce expenditures for public health to an amount that is  
7 less than sixty per cent of the county's fiscal year general fund public  
8 health expenditures as determined by calculating the average of the fiscal  
9 year expenditure amounts for the three fiscal years immediately preceding the  
10 year of the district's formation. Costs for financing construction of any  
11 building shall not be included in the calculation of expenditures.

12 D. If the county does not form a public health services district  
13 pursuant to this section, the county shall provide equally public health  
14 services to all residents of the county including residents of cities and  
15 towns. The county may spend monies for public health services to address a  
16 specific public health need that is unique to a particular area or condition.  
17 The county shall not reduce expenditures for public health to an amount that  
18 is less than fifty per cent of the county's general fund public health  
19 expenditures in fiscal year 1998-1999. Costs for financing construction of  
20 any building shall not be included in the calculation of expenditures. Any  
21 city or town may provide services to its residents beyond the county's basic  
22 level of service and may use any combination of internal municipal  
23 departments or any other provider.

24 E. A city or town that contributed monies to a county's public health  
25 budget in fiscal year 1999-2000:

26 1. In fiscal year 2000-2001, shall pay to the county one hundred per  
27 cent of the city's or town's original public health expenditure.

28 2. In fiscal year 2001-2002, shall pay to the county ninety-five per  
29 cent of the city's or town's original public health expenditure.

30 3. If the district is formed pursuant to this section or for any  
31 fiscal year after 2001-2002, shall no longer be obligated to pay monies to  
32 the county for public health expenditures.

33 4. Shall determine the city's or town's original public health  
34 expenditure level by calculating the fiscal year expenditure amount for  
35 fiscal year 1999-2000. Costs for financing construction of any building and  
36 payments made for expenditures incurred for any previous fiscal year shall  
37 not be included in the calculation of expenditures.

38 Sec. 37. Section 48-6414, Arizona Revised Statutes, is amended to  
39 read:

40 **48-6414. Inapplicability of other adequate water supply**  
41 **provisions to proposed subdivisions in the district**

42 Section 9-463.01, subsections J through Q, section ~~11-806.01,~~  
43 ~~subsections F through I~~ **11-823**, section 32-2181, subsection F, section  
44 32-2183, subsection ~~F~~ **H**, section 32-2197.08, subsection D, section 45-108,  
45 subsection H, section 45-108.01, section 45-108.02 and section 45-108.03 do  
46 not apply to proposed subdivisions in the district.

1           Sec. 38. Section 49-1273, Arizona Revised Statutes, is amended to  
2 read:

3           49-1273. Water supply development revolving fund; purposes;  
4                           limitation

5           A. Monies in the water supply development revolving fund may be used  
6 for the following purposes:

7           1. Making water supply development loans to water providers in this  
8 state under section 49-1274 for water supply development purposes.

9           2. Making loans or grants to water providers for the planning or  
10 design of water supply development projects. A single grant shall not exceed  
11 one hundred thousand dollars.

12           3. Purchasing or refinancing debt obligations of water providers at or  
13 below market rate if the debt obligation was issued for a water supply  
14 development purpose.

15           4. Providing financial assistance to water providers with bonding  
16 authority to purchase insurance for local bond obligations incurred by them  
17 for water supply development purposes.

18           5. Paying the costs to administer the fund.

19           6. Providing linked deposit guarantees through third party lenders by  
20 depositing monies with the lender on the condition that the lender make a  
21 loan on terms approved by the committee, at a rate of return on the deposit  
22 approved by the committee and the state treasurer and by giving the lender  
23 recourse against the deposit of loan repayments that are not made when due.

24           B. If the monies pledged to secure water supply development bonds  
25 issued pursuant to section 49-1278 become insufficient to pay the principal  
26 and interest on the water supply development bonds guaranteed by the water  
27 supply development revolving fund, the authority shall direct the state  
28 treasurer to liquidate securities in the fund as may be necessary and shall  
29 apply those proceeds to make current all payments then due on the bonds. The  
30 state treasurer shall immediately notify the attorney general and auditor  
31 general of the insufficiency. The auditor general shall audit the  
32 circumstances surrounding the depletion of the fund and report the findings  
33 to the attorney general. The attorney general shall conduct an investigation  
34 and report those findings to the governor and the legislature.

35           C. Monies in the water supply development revolving fund shall not be  
36 used to provide financial assistance to a water provider, other than an  
37 Indian tribe, unless one of the following applies:

38           1. The board of supervisors of the county in which the water provider  
39 is located has adopted the provision authorized by section ~~11-806.01,~~  
40 ~~subsection F~~ 11-823, SUBSECTION A.

41           2. The water provider is located in a city or town and the legislative  
42 body of the city or town has enacted the ordinance authorized by section  
43 9-463.01, subsection 0.

44           3. The water provider is located in an active management area  
45 established pursuant to title 45, chapter 2, article 2.



1                   Sec. 39. Retention of members  
2                   All persons serving as members or alternate members of a county  
3            planning and zoning commission on the effective date of this act may continue  
4            to serve until expiration of their normal terms.  
5 Amend title to conform

and, as so amended, it do pass

STEVE B. MONTENEGRO  
Vice-Chairman

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